

THE FINANCE DEPARTMENT'S

REFUSAL TO REFUND PROPERTY TAXES PAID IN ERROR:

THE SLIPPERY SLOPE BETWEEN NEED AND GREED

The Detroit Finance Department, charged with collecting, tracking, and maintaining the City's coffers, must necessarily be objective, measured, and sometimes even cold and calculating. However, in recent years, some of the Finance Department's policies and practices have approached being callous, rigid, and even avaricious.

To be fair, some past problem practices have been adequately addressed, such as the problem we reported last year, which was caused by the improper lifting of property tax caps. While the Office of the Ombudsman continues to assert that departmental notification and explanation to the agitated taxpayer who has been improperly hit with massive and incorrect property tax increases is woefully inadequate, the fewer numbers of complaints mean the department is better able to address and assist those occasional complainants that continue to trickle in.

Some Finance Department problems, however, remain, and new ones appear to have been added. Still on the list of our concerns is the lack of clear and adequate notification to those fortunate but uninformed property taxpayers who have a property tax credit. In the Ombudsman's Budget Analysis Report of 2000, we reported that we had been informed by more than one source within the Finance Department that over twenty million dollars (\$20,000,000.00) in unpaid property tax refunds were due to taxpayers who had not been properly informed of their status.

To date, property tax bills have still not been reformatted or reworded to clearly indicate these credits, nor is the credited amount subtracted from the "bottom line," so property taxpayers know exactly what they owe. If the Finance Department finds it a burden to reformat the property tax bill, a slip of paper with the information and instructions could be added to those property tax bills where a credit is indicated. Property taxpayers are entitled to be so notified, and assisted courteously and efficiently when they inquire about notations on their property tax bills they do not understand. We find it unconscionable that those inexpensive steps have not yet been taken to do so.

While the above concerns are not new, the Finance Department has apparently adopted a new practice which is of major concern to this Office, and which the department has thus far refused to address.

No Refunds for Property Taxes Paid in Error & No Accessible Recourse

The Office of the Ombudsman has recently learned of an apparently new practice within the Finance Department: An absolute refusal to refund property tax payments when they

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are mistakenly paid on the wrong address, even when the mistake is prompted by an initial error on the part of the Finance Department. This refusal is rationalized with a claim which has appeared recently on complaint responses from the Finance Department to the Office of the Ombudsman, answering complaints about taxes paid in error:

"We are sorry that the taxpayer paid taxes on a property in error. However, we are prohibited by the State of Michigan from refunding property taxes paid voluntary." (Sic; emphasis added.)

There are several problems with this response:

–The Finance Department Has Only Recently Become More Rigid with Refunds:

Until 2002, the City did not always heed what "the State of Michigan" presumably prohibited, yet the missive from the State of Michigan, cited by the Finance Department, is dated January 19, 1995. Despite the fact that this memo from the Michigan Department of Treasury is over eight years old, the Finance Department has a previous history of flexibility with misinformed taxpayers who have inadvertently paid taxes on the wrong property. The Office of the Ombudsman finds it interesting that only now, faced with massive deficits, has the City apparently resorted to quoting the State and rigidly refusing the confused taxpayer any reasonable relief.

–The Finance Department Refuses to Address or Remedy Its Own Errors:

In two recent cases, the Office of the Ombudsman has been attempting to work with the Finance Department on acquiring refunds for property taxpayers who paid in error, based on an original error by the Finance Department. In one case, property taxes were paid on property not owned by the taxpayer in response to a property tax bill sent in error by the Finance Department. In another case, the property taxpayer was attempting to redeem her property based on incorrect information provided by the Finance Department. (See below, pages 4 and 5, for additional details on both these cases.) Thus, in these and doubtless other instances, departmental error generated more revenues for the department, without departmental accountability. The Finance Department, in effect, is rewarded for its own mistakes.

–The Finance Department's Policy is Ripe for Abuse:

If, as the Finance Department asserts, no refund is available to taxpayers who have paid inadvertently on property they don't own, even when the mistake is prompted by a Finance Department error, the bureaucratic door is left wide open for abuse. The Finance Department thereby benefits unjustly for its own mistakes because in any batch of errors perpetrated by the Finance Department, a certain percentage of taxpayers will rely on the

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error, pay improperly, and be refused a refund when they discover the error. Thus, the Finance Department is rewarded for its own incompetence, and is discouraged from addressing its mistakes. Overzealous Finance Department employees may even be tempted to fraudulently and deliberately process improper tax bills, in a misdirected sense of mission, to assist the City in its current financial crisis. In any event, negligent processing is encouraged by the lack of corrective measures, such as admitting the error, apologizing to the taxpayer, reprocessing the invoice, and providing a refund. Government works best which works most fairly, and practices which promote inefficiency, negligence, or even corruption tend to disillusion the taxpayer and threaten the foundation of the whole system.

–The Finance Department May Be Relying on Questionable Legal Grounds:

The Finance Department's apparent defense for insisting on their practice of refusing to pay refunds paid in error following a departmental mistake, is found in the previously described 1995 memorandum from the then-serving Administrator of the Local audit and Finance Division of the Michigan Department of Treasury. This memo cites four court cases¹ to support its allegations.

However, none of the facts in those cases parallel the current issue: That issue is whether the Finance Department may properly withhold refunds from residential property taxpayers, where the payments in error followed and were prompted by departmental errors in billing and information supplied to the taxpayers, In fact, there is both case law²

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- National Bank of Detroit v. City of Detroit (1935) 272 Mich 610; 262 N.W. 422 (Improper personal tax on federally-required stock in Federal Reserve Bank not refunded because "voluntary," per court.)
 - Carpenter v. City of Ann Arbor (1971) 35 MichApp 608; 192 N.W.2d 523 (Invalid special purpose tax not refunded because court found lack of protest, lack of mutual mistake.)
 - Hertzog v. City of Detroit (1966) 378 Mich 1; 142 N.W.2d 672 (Declaratory judgment in favor of taxpayer contesting the improper payment of property taxes by the Detroit Department of Street Railways to the City of Detroit on state-owned property.)
 - General Discount Corp. v. City of Detroit (1943) 306 Mich 458; 11 N.W.2d 203 (Statute of limitations barred recovery of illegally assessed personal taxes, where the court found they were not paid under duress nor protested timely.)

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Spoon-Shacket Co., Inc. v. County of Oakland (1959) 356 Mich 151; 97 N.W.2d 25 (Relief granted to residential property taxpayer mistakenly assessed where **"one party [sought] unjustly to enrich himself at the expense of another on account of his own mistake and the other's want of immediate vigilance, litigatory or otherwise."** (356 Mich 151, 156; emphasis added.))

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and statute³ which could reasonably tend to support a departmental decision to refund certain property taxes paid in error where the taxpayer relies on false information from the Finance Department. It appears to this Office that in the past, the Finance Department did so reasonably and properly refund when the circumstances warranted. We regret the department's new practice, new rigidity, and new harshness toward struggling residential property taxpayers who are simply attempting to meet their financial and legal obligations. Consider these recent residential property taxpayer complaints which this Office has attempted to resolve, without result, thus far.

Two Illustrative Cases:

(1) The Case of the Disappearing Lien Buyer

In one complaint, an attorney approached this Office representing pro bono a senior citizen-former property owner "of limited means" whose property taxes had lapsed on her former Detroit residence (she had moved north to care for her invalid mother). When the attorney sought information on the status of the property, he was informed by a Finance Department employee that in fact his client's property was still available for redemption. The attorney, following the Finance Department employee's explicit and detailed instructions, then went to the Wayne County Treasurer's Office and the information was confirmed: The tax lien buyer had neglected to "open a file," and the property was still available for redemption.

Surprised and pleased, the attorney informed his impoverished elderly caretaker client that if she wished, she could redeem the property for back taxes. It took a few days, but the taxpayer was able to raise the funds to pay the back taxes, and both the taxpayer and the attorney came downtown to pay the taxes and redeem the property. The same Finance Department employee confirmed again that the property was available for redemption, and accepted a check for over five thousand dollars (\$5,000.00) in back taxes. Following instructions, the attorney and the taxpayer then immediately went to Wayne County, and presented a smaller property tax check to the Treasurer's Office.

However, upon receiving the check, the Wayne County Treasurer employee discovered that they, the Wayne County Treasurer's Office, had made an error, that a tax-lien buyer had indeed "opened a file," and that the property was not available for redemption.

Apologizing, the Wayne County employee immediately gave the taxpayer her check back. The attorney and the taxpayer hastened to return to the Detroit Finance Department where they were initially informed that they would receive a refund, following a review by a supervisor to confirm from the original employee that he had indeed inadvertently provided mistaken information regarding the status of the property in question.

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Per Chapter 211, of the Michigan Compiled Laws: "Any taxpayer who is assessed and pays taxes in excess of the correct and lawful amount due because of a clerical error or mutual mistake of fact made by the assessing officer and the taxpayer may recover the excess so paid, without interest, if suit is commenced within 3 years from the date of payment, notwithstanding that the payment was not made under protest. (MCLS §211.53a (2002); emphasis added.)

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Several weeks went by, and despite numerous phone calls, the attorney was unable to speak to the supervisor who was variously unavailable, or still looking into the matter. Eventually, the attorney and taxpayer were informed by the Finance Department that under no circumstances would the Finance Department refund the mistakenly-paid taxes. The attorney sought appeal to higher authorities, and eventually to this Office, without results.

Mistakenly convinced that the problem was merely one of mis-communication, the Office of the Ombudsman originally attempted to resolve this complaint informally over a three-month period. Eventually a formal complaint was processed, and the answer came back that the refund was denied. A staff person in this Office, while attempting to resolve the complaint informally, was informed by a senior level Finance Department employee that the Finance Department was "only following state law." Upon further questioning, the Finance Department employee admitted that the state law referred to did not actually prohibit the Finance Department from refunding the taxes, but merely that the legal responsibility for paying the correct property taxes rests with the taxpayer. Calls to the Finance Department Director's office were not returned. On February 21, 2003, the Office of the Ombudsman sent a letter to the Finance Department Director Sean Werdlow regarding this and the next case (discussed below). We still await an answer.

(2) The Case of the Single Digit Mistake

This complaint was processed by the Office of the Ombudsman May 3, 2002, and responded to by the Finance Department at the end of October, 2002. The department had billed the taxpayer incorrectly for a property he did not own, although he does own property right next door. In fact, the property in question, invoiced improperly by the department, was apparently held by the State of Michigan at the time; property tax bills should not have been sent at all because the property would have been exempt. Mistaking his own property address for the property on the Finance Department's incorrect tax invoice (there was a difference of one digit in the address), the taxpayer inadvertently paid nearly fifteen hundred dollars (\$1,500.00) on the wrong property.

The taxpayer attempted several times to straighten out this mistake, and then resorted to the Office of the Ombudsman. The Finance Department's response is identical to that provided to the above complaint; it claims the "State of Michigan" prohibits a refund.

Again, as in the above complaint, the Finance Department made the original mistake, in mailing the property tax bill to the wrong taxpayer, and the department's mistake was not realized by the taxpayer until after he paid in good faith, believing he was paying for his own property. The Finance Department not only refused to refund the taxpayer's incorrect payment, they insisted he also pay the taxes on the building he did own, right next door.

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The Office of the Ombudsman submitted the following questions to the Finance Department in February 21, 2003, with no response thus far:

- Does the Finance Department have a new policy regarding mistaken payment of property taxes? Is the policy in writing? Is a copy available? If there is no new policy, why have these complainants been singled out for this apparent blanket departmental refusal to provide a refund or explain the reasons for the refusal? Are there other circumstances in these two cases of which this Office is not aware, which would explain the department's action in these cases?
- Which statutes or other legal authority are being cited by the Finance Department?
- Why should the elderly taxpayer, following directions (provided on two occasions) from the Finance Department, be penalized for the Finance Department's error in the status of the property in question?
- In the above complaint, if in fact a tax-lien buyer had "opened a file" on this property, does that not suggest that the taxes had already been paid? Why is the Finance Department attempting to withhold the refund of what may be a duplicate payment of taxes on the same property?
- In the case of the second complaint above, if, as the documents appear to indicate, this property was held by the State of Michigan, why was a tax bill sent out in the first place? And, after having sent out the bill in error, why should the taxpayer not receive his refund on property that is exempt from property taxes, being held by the State?
- Does the Finance Department offer an appeal process, or alternative complaint process, for frustrated taxpayers? If there is such a process, why have the procedures not been communicated to these complainants? If there is no such appeal process, what is the recourse for frustrated taxpayers who cannot afford litigation?
- Does the Finance Department's position with regard to mistaken taxpayers whose error followed a departmental error take into account the cost to the City of

litigation? Please provide to this Office an analysis of the costs of litigation to the City from these types of complaints.

It appears to this Office that the Finance Department is taking advantage of the notorious costs, delays, stresses, and inconvenience of litigation in order to avoid paying what should be the City's obligation to pay in the first place. In other words, the Finance Department is causing the City to avoid its own ethical and equitable obligations by "daring" the beleaguered taxpayer to file a cause of action against the City, an action the department knows full well most taxpayers wish to, or are constrained to, avoid. Thus, the Finance Department avoids any real responsibility for its own errors, and causes that burden to be placed on the taxpayer.

This position appears to this Office to be the antithesis of good government practice, which seeks to achieve consistent, reliable and fair services for all. Further, it creates a double standard, both within and outside City government: First, the City does not abide by its own rules; taxpayers are penalized for their mistakes, but the City is not. Second, the Finance Department's position creates a double standard between taxpayers: Those taxpayers who can afford litigation, or have the appropriate

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resources to litigate can do so, while those taxpayers who are owed refunds by the City but cannot manage the costs and stresses of litigation are forced to accept the City's verdict of no refund, without apparent recourse or remedy.

Both the above complaints have in common that they represent requests from residential property taxpayers who, having paid taxes in error on property they did not own, in response to a departmental error, sought refunds from the City, and were denied them. In both cases, the mistaken payments followed receipt of incorrect information from the City which led the taxpayers to believe that they owed the taxes. In both cases, upon discovering that the City had made an error, the taxpayers sought refunds and were flatly refused. Both taxpayers are not corporate or governmental entities, but private citizens of limited means struggling to meet their public obligations. The Finance Department, indeed the City of Detroit, owes them better treatment, treatment that is more equitable, fair, and humane, in addition to their refunds.

WEEDS, LIENS, SPECIAL ASSESSMENTS, AND MISUSE OF AUTHORITY:

THE VACANT LOT CLEARING PROGRAM'S PROBLEMS

WITH CONFLICTS OF INTEREST, HARASSMENT OF PROPERTY OWNERS

The complaint area of weeds has hovered around the middle of the Top Ten list of complaints compiled annually by the Office of the Ombudsman, including in this year's Report, where it ranks as number five. In our Ten Year list of complaints, compiled from July 1991 to June 2001, complaints about weeds and tall grass were at number seven. Tall weeds are a serious health and safety hazard, harboring rodents, blocking drivers' view of traffic, causing breathing problems, and generally detracting from the look and well-being of a neighborhood. Despite the severity of the weed problem itself, the cure may be worse than the illness.

The Office of the Ombudsman has been receiving repeated complaints from an unnecessarily large number of frustrated property owners whose vacant lots have been reported to have been cut by a City-contracted vendor, but was not, or was cut unnecessarily because the property owner had recently completed a cutting. In addition to false cuttings and unnecessary cuttings, we find that the property owners may become targets of repeated improper cuttings, non-cuttings, and duplicate improper billings. In some cases, the problems multiply and repeat year after year after year. It sometimes appears to the objective observer that once you're "on the list," you never escape.

In addition to the repetitive, quagmire-like aspect of this problem for individual complaining property owners, further investigation has convinced this Office that there are severe systemic problems with the overall effectiveness and propriety of this program, especially given its current configuration and attendant problems.

The Process Itself: A Messy Operation

Tracking the process of weed removal, billing property owners, placing liens and special assessments, and voiding those liens and special assessments is a challenging job for a bureaucratic bloodhound, let alone for the complaining citizen. The whole operation is unnecessarily confusing, leading to significant difficulties in determining where in the process the original problem occurred. Further, the system itself contains internal improprieties which need to be addressed. The Office of the Ombudsman began this investigation with a

critical look at the entire process, identifying the players, and understanding their respective responsibilities.

! **The Players – Understanding Who Does What:**

The departments involved in the weed removal/invoice/special assessment operation include the Department of Public Works (DPW) and the Finance

Department. (The City Council and the Law Department may also be involved, but their involvement is not part of the problem as we see it.) The divisions and offices within those departments include the following:

- A. DPW-Central Accounting (Finance Department), the office which tracks DPW's financial records, is actually an office within the Accounts Division of the Finance Department. DPW-Central Accounting (Finance) is responsible for billing private property owners for weed removal, for requesting investigations of private property billing complaints, and for forwarding information about non-payment. This Office also prepares resolutions for the DPW Director to sign and forward to City Council to remove weed-cutting special assessments.
- B. DPW's Solid Waste Division is responsible for administration and oversight of the contractor-vendors who cut the vacant lots; their inspectors determine first that the lots were cut, and they may be sent out to inspect and report to DPW-Central Accounting on lots which are the subject of private owner complaints.
- C. Finance Department's Assessors Division is the section responsible for, among other things, processing liens against private property owners who have not paid their weed-cutting invoices, communicating with City Council to place special assessments, and communicating with the Accounts Division of the Finance Department, which maintains the records.
- D. Finance Department's Accounts Division, which includes department accounting offices, such as DPW-Central Accounting, is also the office which maintains records of City financial transactions. This Finance Department division also is responsible for receiving and processing records of property owners who had not paid their DPW weed-cutting invoices, and communicating the non-payment to the Treasurer's Division of the Finance Department.
- E. Finance Department's Treasurer's Division is the City office which places special assessments on private property when the owners owe the City, in this case for weed cutting services. The Treasurer's Division also removes the special assessment when it has been cleared by City Council.

! Following the Process, Step by Step:

1. "Notification" to Property Owners:

When the City initiated a wholesale program to cut vacant lots using private contractors, the job of administering the program was assigned to the Department of Public Works (DPW). DPW "notifies" private property owners before the cutting season via a notice published in the Legal News, the Detroit Free Press, and the Michigan Chronicle by quoting the appropriate City ordinances and declaring the City's intent to remove weeds and brush on ... real estate on or after May 1, [year]." The notice further states that "the City may remove such weeds or growth as many times as is necessary and bill the cost to the property owner. If the billed amount is not paid within sixty days from the date a statement was forwarded to the [property owner], a notice will be sent to the Board of Assessors, who shall assess the amount against the property in question."

2. Contractors Determine Which Lots Are Cut:

DPW's Solid Waste Division hires contractors (or "vendors") every growing season to cut or clear vacant lots with tall grass or weeds in violation of the City ordinances. Specifically, the weed-clearing contractors are each assigned to a specific geographic area where their orders are to cut all vacant lots where the weeds are over eight inches tall, and/or brush is over 12 inches tall. **In other words, DPW itself does not identify which vacant lots the vendors should cut; the responsibility for choosing which lots to cut is assigned to the vendor/contractors themselves, who in turn are paid by the City for every lot they report cutting. Thus, it is in the contractors' interests to "cut," or report as cut, as many lots as they can find within their respective areas.**

3. DPW's Solid Waste Division Inspectors Check Contractors' Work:

After the completion of cuttings within a given geographic area, the contractors' cuttings are inspected by Solid Waste Division (DPW)' inspectors assigned to confirm whether the vacant lots reported cut by the contractors were in fact cleared of tall weeds and brush. (These same inspectors are later assigned to re-inspect properties where a complaint has been lodged by the vacant lot owner against the department for improper billing.)

4. The Billing Process Begins:

After the cuttings, the contractors submit their invoices to DPW-Central Accounting (Finance Department) for processing. According to a departmental administrator, approximately 41,000 – 45,000 vacant lots are cut per year, some as many as three times. The departmental administrator reported that, of the over 40,000 lots, approximately 50% – 60% are owned by the City, and the cost for cutting must be absorbed by the City. Another 25% of the vacant lots are state-owned, and the State of Michigan does not have a good record

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Previously, the department utilized inspectors from the Environmental Enforcement Division; as of FY2002-03, the Solid Waste Division has assumed that responsibility.

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paying off its bills for this service to the state's properties. The remaining fifteen to twenty-five percent are privately owned vacant lots.

5. Unpaid Bills: The State's Debt to the City:

The Office of the Ombudsman has been reliably informed that the State of Michigan owes the City of Detroit two million, one hundred thousand dollars (\$2,100,00.00) for weed cutting service performed for past cutting seasons; since the year 2000, the state has paid zero on that total. Previous to the year 2000, the State of Michigan automatically conveyed tax-forfeited properties back to the City of Detroit; after 2000, the state began holding the properties and auctioning them off to private bidders. Thus, during the period that the state holds the properties, before they are auctioned, they must be maintained, and Michigan has no program to cut and clear its own properties in the City of Detroit. The City assumes that responsibility and bills the state for its weed-cutting services, but the state has thus far not remitted the payments to the City.

6. Billing Private Property Owners – 60-Day Limit to Pay Invoice:

Approximately 5,000 invoices are sent by DPW-Central Accounting (Finance) to private property owners per year, of which about 10 percent are returned by the Post Office as undeliverable. These invoices deal with the privately owned 10 – 15,000 lots per cutting cleared by the City's contractors; many owners own multiple lots. When the invoices are mailed to the property owners, they are provided 60 days to pay the invoice. In the event they pay the invoice within 60 days, no record is forwarded to any other department.

7. Complaining Private Property Owners within the 60-Day Limit:

In the event a private property owner complains about paying the bill for weed cutting within the 60-day limit, a DPW-Solid Waste Division inspector will again be assigned to inspect the property. If the property turns out to be fenced, or there is some other visible reason for canceling the invoice, or if the address of the lot is incorrect, the inspector from the Solid Waste Division of DPW notifies DPW-Central Accounting (Finance). Central Accounting cancels the invoice, and a note is sent to the complaining property owner stating the billing has been canceled and apologizing for any inconvenience. **No further action is taken by the Department in that instance, but the erroneous bill cycle may well be repeated the following year, if the contractor again "cuts" fenced or paved property, or cuts when the lot is already well maintained by the owner.**

8. After the 60-Day Limit – Lien Placements and Special Assessments:²

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The "lien" is placed on the property when the invoice is unpaid, following the Assessor's Division hearing; a lien denotes a notice of encumbrance against a property which is placed in the Wayne County Registrar of Deeds. Only the Law Department may cancel a lien, after researching the records to establish the propriety of the cancellation. A "special assessment" is placed on a property when the Treasurer's Division of the Finance Department assumes the responsibility of collecting the unpaid amount; special assessments accrue interest and penalty on the unpaid balance. Only City Council may cancel a special assessment, by Council resolution, after formally receiving information that the assessment was incorrectly placed.

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If, however, the private property owner does not complain or pay the invoice within 60 days, a record is sent to DPW-Central Accounting (Finance) to the Assessor's Division of the Finance Department. The Board of Assessors, after publishing a notice of lien-placement against the property in the Legal News, and sending a copy of the notice to the taxpayer of record, holds hearings so that property owners may appear and challenge the placement of a lien on their property. Following that process, assuming the invoice is not paid, the Assessors Division notifies City Council that special assessments should be placed on various private properties for non-payment of the weed-cutting invoices. City Council passes a resolution, and the Assessor's Division watches the Legal News for a formal notice of City Council's resolution establishing the special assessment.

9. Handling Special Assessments – Difficulties Inherent in the Process:

Upon seeing the notice establishing a special assessment published in the Legal News, the Assessor's Division of the Finance Department sends the notice to the Accounts Division of the Finance Department, which processes and maintains the appropriate records. In turn, the Accounts Division of the Finance Department notifies the Treasurer's Division of the Finance Department. The Treasurer then sends the property owner a tax bill indicating a special assessment has been placed on the property. That billing may be sent several times a year, accruing interest and penalty, sometimes even after a complainant has convinced DPW-Central Accounting (Finance), the office responsible for maintaining and processing DPW's invoices, that the original billing was in error.

The culprit for these difficulties in clearing a special assessment may be found within the processes involved in first placing, and later removing the special assessment.

10. Removing An Improper Special Assessment:

If a complaining property owner successfully convinces a DPW Solid Waste Division inspector, or in the alternative, convinces the office of DPW-Central Accounting (Finance) to void the improper billing, but the notice has already been sent to the Assessor's Office with a resultant special assessment placed on the property, only City Council may act to remove the improper special assessment. The details of the process at this point are as follows:

a. Complaining about An Improper Billing – From DPW's Administrative Offices to DPW-Central Accounting (Finance Department):

When a complaining private property owner calls DPW (224-3900) to complain about an improper invoice, the complaint is sent to DPW-Central Accounting (Finance).

b. Complaining about An Improper Billing – From DPW-Central Accounting (Finance) to DPW's Solid Waste Division:

DPW-Central Accounting (Finance) in turn sends a request to DPW's Solid Waste

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Division that a complaint about a given vacant lot has been filed; The Solid Waste Division assigns an inspector to check the property, and report back to DPW-Central

Accounting (Finance) in writing.

- c. Complaining about An Improper Billing – From DPW's Solid Waste Division to DPW-Central Accounting (Finance):

If the Solid Waste Division inspector sends a written report to DPW-Central Accounting (Finance) that the invoice should be canceled, or if Central Accounting determines from other information that the invoice should be canceled, the DPW-Central Accounting (Finance) office communicates said information with the property owner. The DPW-Central Accounting office also composes a resolution for City Council, requesting that the special assessment be removed, and forwards it to the director of DPW for his signature.

- d. Complaining about An Improper Billing – From City Council to Finance:

The next step is that City Council determines that the special assessment was improperly placed, and communicates their finding to the Finance Department via City Council resolution, which notice is also placed in the Legal News.

- e. Complaining about An Improper Billing – From Finance's Administrative Office to Finance's Treasurer's Division:

The Finance Department's administrative office notifies the Treasurer's Division, and the Treasurer causes the record to be corrected and the special assessment to be canceled. (Ideally, but not inevitably, the Law Department is also notified via the notice in the Legal News, so that the original lien may be voided in the Wayne County Registrar of Deeds.) At some point, the property owner stops receiving a special assessment notice on their property tax bill, and earnestly hopes the error has finally been addressed. Then, another growing season arrives, and in too many cases, the process is repeated.

! City Costs and Overdue State of Michigan Debts

The cost of all this work by all these persons within all these various agencies is not known, and may be incalculable. What is known is that the City budgets nearly four million dollars a year for all weed-cutting contractors' work. (That may include as many as three cuttings per growing season, per lot.) The Mayor's proposed budget for FY 2003-2004 calls for a slight increase, from \$3,825,809 to \$3,844,489. The private property owners are billed in accordance with the size of their lot, but the average bill for one cutting is seventy-one dollars (\$71.00), with about 10,000 to 15,000 private properties being invoiced per cutting season, although City- and State-owned properties far exceed that total. The budget submitted by the Mayor

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estimates that weed-cutting invoices to private property owners will bring in revenues of approximately \$216,000. Presumably, this estimate does not assume the possibility of payment by the State of Michigan for its weed-cutting obligations.

It bears repeating that the State of Michigan is in arrears to the City for vacant lot clearing of State-owned properties in the amount of two million, one hundred thousand dollars (\$2,100,000.00), and counting, since the year 2000. Thus, this costly, complex, and problem-riddled system could be much more easily addressed if the State of Michigan simply met its obligations to the same degree private property owners are being pressured to do so, sometimes improperly.

The Problems That Result from An Overly Complex, Improper System

The Office of the Ombudsman has noted in previous Budget Analysis Reports that this vacant lot weed cutting system is problematic and riddled with improprieties. (See "Weeds and Liens" in the Budget Analysis Report for the year 2000. We observed then that the system "remains an aggravating and cumbersome process," and we requested in vain that DPW offer suggestions for addressing the many repeated complaints we were attempting to resolve.) As this Office investigated this system more extensively, our concern grew. Following are a few of the problems we observed:

1. **Contractors' Conflict of Interest:** Providing the contractors with the authority to pick and choose the sites they cut, and then paying them for that work, appears to this Office to be an invitation for fraud and abuse. Difficult, challenging lots may be ignored, and clean, already-maintained lots may easily and quickly be re-cleared when no work was necessary. Or, a recently cut lot may be added to a contractor's list in an attempt to be paid for work not done by the contractor. We question whether, and to what degree, contractors who have a record of submitting improper invoices are disciplined, their pay decreased accordingly, or if they are even prohibited from contracting with DPW for lot cuttings the following year.
2. **A problem with Notification:** "Notifying" private property owners that their property may be cleared, a lien put on their property, and special assessment penalties and interest accrue, when the notification itself may only appear in the Legal News, the Detroit Free Press, or the Michigan Chronicle may be problematic. What if the property owner misses the generic notice, does not understand its particular significance to himself, or reads only the Detroit News? The Office of the Ombudsman recommends initial inspections and individual violation notices be sent to private property owners whose lots are not within ordinance standards.
1. **Sufficient Inspectors:** In the past year, 14 inspectors were available within the Environmental Enforcement Division of DPW to inspect 41 – 45,000 vacant lots cut by contractors to determine that the job had been done, and done properly, according to departmental specifications. It seems obvious from previous complaint records that some of them had trouble effectively accomplishing this assignment, especially considering they were also responsible for all other environmental inspections. **In the coming year, DPW's Solid Waste Division will attempt to do the same job with four inspectors.** To be sure, these inspectors will apparently "only" be charged with vacant lot

WEEDS, LIENS, AND VACANT LOTS, con't.

inspections, in contrast to the Environmental Enforcement Division's inspectors' responsibilities.³ Despite this reduction in assignments, the fact remains that four inspectors will be responsible for monitoring over 40,000 properties, perhaps as many as three times a growing season. This amount of work appears to this Office to be an impossible task; thus, the likelihood exists that these types of complaints will multiply in the coming year, and beyond.

2. **Inspectors' Conflict of Interest:** Vacant lot inspectors are authorized to judge their own initial inspection findings by being assigned to re-inspect the same lot if a property owner challenges the cutting. This represents another potential conflict of interest, because they are in effect being asked to comment on their original inspection. **Given the lack of an adequate number of inspectors, and given this potential conflict of interest, this system of inspections appears to this Office to be fraught with the possibilities for error, misjudgment, careless and hasty inspections, coupled with the human need to justify or deny one's original mistake.**

3. **A Complex Special Assessment/Lien Process:** It appears to the Office of the Ombudsman that the lien/special assessment placement and lien/special assessment removal processes are unnecessarily complex, and subject to the potential for both complaints and remedies to "fall through the cracks." We titled the process a "Messy Operation" for a reason; tracking where a given invoice/lien/special assessment is in the process is a challenge for the Ombudsman's Office with its internal contacts and general knowledge of the City systems. The innocent complainant attempting to find redress and navigate his or her way through the City's bureaucracy to correct an error is surely even more confused.

To summarize the process, following a 60-day waiting period after an unpaid invoice has been sent to the taxpayer of record, a special assessment/lien notice goes from DPW's Central Accounting (Finance) to the Finance Department's Assessor's Division, to City Council, to the Finance Department's Assessor's Office, to Finance's Accounts Division, to Finance's Treasury Division. A complaint of improper billing, if not addressed or paid within 60 days, goes from DPW's Central Accounting (Finance) to DPW's Solid Waste Division, then back to Central Accounting. If it is determined by Central Accounting that the billing was in error, they notify City Council through the DPW director. Following its deliberations, City Council notifies the Finance Department administrative offices, who in turn notify Finance's Treasury Division. Presumably, the Law Department is also notified, and, following its findings, a notice is sent to the Wayne County Registrar of Deeds. With this kind of routing, and the number of people, desks, offices, divisions, and departments that an individual notice must traverse, the opportunities multiply for temporarily misplacing, mishandling, or simply losing it altogether.

4. **Repeat Complaints:** Too often, the Office of the Ombudsman must deal with frustrated complainants whose properties were allegedly cut improperly (or not cut at all), where the improper billing and subsequent special assessments were finally removed after many attempts at communication and tracking down, only to have the process repeated the following year. Once again, a contractor improperly claims to have cut a yard that is perhaps fenced, or paved, or where the owner maintains the property weekly and can provide documentation to support that claim, but a DPW billing is sent,

³

Ten inspectors have been transferred from the Environmental Enforcement Division of DPW to the Environmental Affairs Department, which is now charged with enforcing environmental complaints, but not with inspecting vacant lot cuttings.

WEEDS, LIENS, AND VACANT LOTS, con't.

and the process begins yet again. The frustration level of the complainant is understandably high when they contact this Office. Repeat complaints of this nature eat up everybody's time on a complaint that is probably justified, given the previous history on the property. It is in DPW's and the Finance Department's best interests to fix these repeat problems, to the degree possible, even given an admittedly significant lack of adequate resources. Repeat complaints are also related to the next problem, failure to maintain updated property lists.

5. **Failure to Maintain Updated Property Lists:** While the officials at DPW-Central Accounting (Finance), and the Assessor's Division maintained steadfastly there was never any "list" from which the City or the contractors worked, it appears to this Office unlikely that no such list ever existed. One of the many problems faced by DPW-Central Accounting (Finance) is that contractors often must guess at the correct addresses of lots they claim to have cut; there are seldom addresses posted on vacant lots. This often-inaccurate information is then forwarded to DPW-Central Accounting by the contractor, and the incorrect property owner is thereby incorrectly billed. Often, the following cutting season, the problem is repeated; the incorrect address is listed by the contractor, and the incorrect property owner is incorrectly billed again.
6. **Budget Matters:** The City will spend close to four million dollars per fiscal year on contracting out the cleaning and cutting of vacant lots. The State of Michigan owes, to date, over two million dollars to the City for the cutting of its properties within the City. The City is entering a time of dangerously high deficits, and there are few resources to address many of the City's most pressing problems. Yet, weed-infested vacant lots present a major health hazard to the City's residents, and their maintenance cannot be safely ignored by the City. The State of Michigan has been allowed to ignore this debt for too long.

Ombudsman Commendation, Recommendations

The Office of the Ombudsman first wants to commend the DPW-Central Accounting (Finance) for its response to the complaining property owner whose complaint is found to be justified within the 60-day limit: Kudos to Central Accounting for timely investigating, admitting an error, withdrawing an improper invoice, and apologizing! We find such procedures fair and laudable, and noteworthy if only because of its apparent rarity within City government.

However, as we noted above, there are significant problems associated with the vacant lot cutting, billing, assessing and appeal procedures. The Office of the Ombudsman recommends that the Department of Public Works and the Finance Department consider the following remedies to our list of problems:

! "Vendors' Conflict of Interest" (#1) – Inspectors Should Determine Which Lots Need Cutting:

In order to prevent an improper conflict of interest, and to reduce the number of complaints which must be resolved later, which can exhaust departmental resources and person-hours, we strongly urge that the authority to choose which site gets cut be reassigned to DPW inspectors. **It is highly inappropriate for private contractors to determine independently which property owners are in violation of City ordinances, especially when it is in their own best interests to inflate those numbers.** Only City employees ought to be accorded with this responsibility, and only after the appropriate training in inspection and ordinance enforcement. Sufficient person-power to do the job properly is admittedly a challenge, and is addressed below at section "C."

! "A Problem with Notification" (#2) – Inspectors Should Issue Violation Notices Prior to Cutting:

WEEDS, LIENS, AND VACANT LOTS, con't.

While the notification mechanism provided by DPW, publication in a daily or weekly paper, is proper under City Code 57-5-4, the Office of the Ombudsman nonetheless

finds the lack of individual notification and consequent opportunity to respond problematic, and not within the boundaries of good government practices. Thus, our recommendation above, that City inspectors first determine which properties are within violation, is crucial; also crucial is the issue of how property owners are provided notice that their property is in violation of City ordinances. When City inspectors determine a property is in violation, a notice may be left at the property, or mailed to the taxpayer of record's address after determining the proper owner. (City-owned properties obviously need not receive such notice.) The inspectors should be directed to keep records of all lots in violation and report back to DPW's Solid Waste Division which properties were found to be in violation.

From the inspectors' lists, addresses and locations would be provided to the contractors, who after a two-week waiting period, could begin cutting those properties still in violation of City weed ordinances. This process provides the individual property owner with sufficient notice to address the problem, complain about an unfair violation notice, or do nothing and allow the City's contractors to cut, but with full, specific knowledge of the consequences. This process should also significantly reduce the number of privately owned lots which need to be cut, thus reducing the City's contractual costs.

! "Sufficient Inspectors" (#3) – Reassign Inspectors:

The Office of the Ombudsman deplores the administration's recent decision to reduce the number of inspectors assigned to handle weed-filled vacant lots. While recognizing the City's financial restraints, we believe that the current resources could be better managed, and recommend that all fourteen of the original inspectors be reassigned to handle both general environmental complaints and to systematically compile the lists of weed and brush violations, perhaps in concert with the recently trained and assigned Police Department environmental inspectors. Whether the inspectors are within DPW, the Police Department, or reassigned to the Environmental Affairs Department, they should be provided with the authority to compile lists of weed/brush violations and instructed to deliver those lists to DPW to assign to the weed-removing contractors. The fourteen (or more) environmental inspectors would then be appropriately assigned to follow up on the contractors, on a random basis if unable to realistically inspect every vacant lot cut by contractors, to monitor their work. This reassignment of inspectors should cost the City no more than the current reorganization plan would, because no additional employees would be hired.

! "Inspectors' Conflict of Interest" (#4) – Shuffle Area Assignments:

We recommend that City inspectors who were not assigned the original task of inspecting a vendor's specific work on a complainant's address would be assigned to follow up on the complaints to verify or deny the complaint allegations, thus avoiding any internal conflict of interest on the inspectors' part. In other words, the inspectors' area assignments should be randomly shuffled after their initial inspections (following the contractors' initial cuts). This practice should also prevent contractors and inspectors from becoming too "chummy" with each other, so that the inspectors may remain objective during the inspection process.

! **"A Complex Special Assessment/Lien Process" (#5) – One Office Tracks the Process, the Complaints, and the Cancellations:**

The Office of the Ombudsman finds that a large part of the problem of addressing improper billing and assessing operations is the number of departments, divisions, and desks a complaint/correction must travel to achieve its objective of canceling the lien and special assessment. Anytime a process becomes too complex, the chances of snags appearing are increased. To the degree possible, we recommend that those various stops along the way to a full special assessment cancellation be minimized.

Further, we recommend that the process be simplified and made more accessible and transparent by assigning DPW-Central Accounting (Finance) to become the clearing house for all such transactions and procedures within the process. If DPW-Central Accounting were directed to provide such tracking service, complainants, and offices assisting such complainants, would be able to find in a moment where in the process the complaint was, and address that particular segment of the procedure. Since DPW-Central Accounting is actually a Finance Department office assigned to DPW, communicating with the appropriate Finance Department division or desk should be a relatively simple task for that office. Further, that office should be highly motivated to simplify the operation from within, given the responsibility to track the progress of a given special assessment, complaint, and special assessment cancellation.

! **"Repeat Complaints" (#6) – Reform the System:**

The Office of the Ombudsman asserts that if the above modifications are accomplished, a large segment of the problem of repeat complaints would be avoided: Contractors would not be free to choose the same properties to fraudulently or improperly "cut," inspectors would have provided individual notice to property owners who would be more likely to regularly maintain their properties;

inspectors checking complaint addresses would not be re-checking their own work; and DPW-Central Accounting (Finance) would be the office responsible for addressing and tracking improper invoices, liens and special assessments, thus having a vested interest in avoiding the same problem the following year.

! **"Failure to Maintain Updated Property Lists" (#7):**

The Finance Department should collect, maintain, and update vacant lot lists, including the correct addresses, the current or last known property owners, forwarding addresses for the property owners, and any other pertinent information necessary to the accurate invoicing of private property owners. Such a list would also note which properties were City-owned, State-owned, and which properties were in a state of transition, i.e., were in Probate Court for estate settlements, or in the process of forfeiture or foreclosure, or in some other form of known (registered) conveyance from one party to another. This list should also record each instance when a property owner complained about previous billings, and whether or not the complaint was resolved in favor of the property owner, and why. This sort of data, annually updated, would prevent much wasted time on the part of City staff work at various departmental levels, and would relieve large numbers of property owners from their annual wrestling matches with the City over incorrect billings, liens, and special assessments.

WEEDS, LIENS, AND VACANT LOTS, con't.

! "Budget Matters" (#8) – Collect on State's Debt:

It appears to the Office of the Ombudsman that the City of Detroit must more effectively pressure the State of Michigan to meet its fair obligations to the City. The absence of pressuring the State, while exerting much (and sometimes needless) pressure on private property owners is blatantly unfair, and an inefficient handling of finances. If the State were to meet its obligations, the City would have more resources to better handle the problem of weed-ridden vacant lots. More inspectors could be hired, and more lots cut more frequently. **The apparent willingness of the City to allow the State's debt to accumulate to such an amount, while pressuring private property owners with liens, special assessments, penalty and interest appears to us to reverse what ought to be the more effective and reasonable course of debt-collection.**

Conclusions

The process of notification, weed-removal, invoicing, lien-placing, special assessing, and tracking and correcting complaints and improper billing by the City is unnecessarily complex, confusing, tedious and of questionable propriety. Insufficient notification to private property owners, conflicts of interest, inadequate resources, problematic administrative changes in assignment and person-power, and ineffective debt collection all combine to

create a system which is at best inefficient and at worst a misuse of authority, and a waste of City resources. The problem of weeds and brush in the City is a major environmental challenge which must be addressed, and the current system is inadequate and riddled with improprieties. Reform is not only available, it is essential.

PROVIDING PUBLIC SERVICES

DURING PERIODS OF FISCAL CRISIS

Ever since 1992, when Mayor, Coleman A. Young's Committee for the 21st Century advocated contracting out a laundry list of municipal services in order to downsize government, there has been a growing sense of pessimism among many citizens that they will ever again receive adequate public services. Over the past decade, that feeling has been reinforced by ongoing fiscal crises that required spending cuts in order to achieve the balanced budgets required by City Charter.

This year the outlook for delivery of services does not look much improved. The City's operating budget is confronted with a mounting deficit. And, we are told, citizens must once again gird for a decrease in delivery of even the basic services.

With that fact in mind, this year the Ombudsman Office's budget recommendations concerning municipal services revolve around two important considerations. Our report focuses on areas where service improvements can be achieved without the need for significantly increasing budgeted resources. And, it will also identify areas where delivery can be more efficiently maintained through either management initiative or restructuring the way that service is provided.

I. Pedestrian Safety

The most successful world cities are those that can offer consistent levels of public services in order to maintain a high quality of life for citizens and visitors alike. Public safety is one of the basic services that cities provide. With location no longer as important a factor as it was in the manufacturing economy era, private employers have shown that they will quickly abandon a jurisdiction that they perceive as unsafe or unclear.

In the world cities of the 21st Century, providing public safety has come to mean more than protecting citizens from the direct threat of crime or fire. Its definition has expanded to include taking action to eliminate loss related to quality of life issues as well. One of the service sectors historically provided by major cities that has been influenced by this changing reality is that of transportation.

In the metropolis of the 20th Century, basic transportation services were geared towards facilitating the movement of traffic through cities. **Today, transportation is no longer seen only as providing for movement of people or goods from Point A to Point B. Among the new concerns that are manifest, one of them is that of managing the impact of the car on the daily quality of life for citizens.** Strategies that have been utilized to accomplish this include providing alternatives to auto traffic within the city for environmental friendliness and safety as well as for providing a remedy for congestion on the streets. The dilemma facing older cities like Detroit is that these changes must be accomplished without the luxury of expanding the existing road network. New street uses have to be implemented without sacrificing the safety of non-automobile users, **and threats of injury and death to pedestrians have to be eliminated in order to maintain the quality of life indicators that are necessary to hold residents and attract job-providing organizations.**

Quality of life indicators used to describe the attractiveness of communities set the threshold of acceptability for pedestrian accidents at 1.5 deaths per 100,000 population. As we pointed out in previous years, Detroit, at somewhere near 5 deaths per 100,000 population for a combined total, has a long way to go before it reaches that level.

-Changing Uses and Needs



The creation of housing, lofts, and expanded apartment living opportunities downtown continues to be hampered by an antiquated street grid that served the needs of the "flow-through" traffic present in the downtown of fifty years ago.

Rethinking how we use the existing road infrastructure and then putting changes into effect downtown does not have to entail a lot of money. **There are a number of improvements to the streets downtown that could be made with minimum costs. In addition, by acting now, rather than reacting later, the public and private development efforts that are being made to sell residents on investing in downtown living will be enhanced, thereby furthering the objective of developing a sustainable downtown economy.**

Necessities such as residential loading and drop-off zones need to be incorporated into the streetscape, and provision for short term parking must be provided to service support activities attendant to downtown living. Streets not essential to the circulation system need to be modified as neighborhood or local streets. Some one-way streets also should be changed to two-way where the change could better support neighborhood use and retailing, while also serving the purpose of calming the movement of traffic through them to a more pedestrian friendly speed.

-Improving Pedestrian Circulation and Safety



Once again the Office of the Ombudsman calls attention to the fact that very little action is being taken to adequately deal with public safety issues impacting on pedestrian movement throughout the City.

For the past five years, we have pointed out the fact that Detroit is consistently one of the nation's most dangerous cities for pedestrians. **That observation has been supported by findings of the National Highway Traffic Safety Administration. Figures recently released by the agency indicate that among PROVIDING PUBLIC SERVICES, con't.**

cities with populations greater than 500,000, Detroit had the highest pedestrian fatality rate during a two year study period from 1998 to 2000. Today, the following observation holds just as true as when it was stated in the Budget Analysis Report for 1999. **"A short walk through the City on any day illustrates the severity of this public safety problem. Drivers turning right on red lights routinely cut in front of pedestrians who have the right-of-way, missing traffic regulation signs allow automobiles access where they shouldn't be, and non-functioning crosswalk signals cause confusion for walkers and drivers alike."**

For example, in 1997, 43 persons were killed in pedestrian related accidents on City streets, while another 899 were injured. Two years later Michigan State Police records indicate that the City-wide rate of injury for non-pedestrians involved in vehicle crashes in 1999 was 32.4 percent. **However, during that period almost all of the pedestrian/vehicle crashes in the four precincts serving downtown Detroit resulted in pedestrian injury. As a matter of fact, the injury rate for this group was 94 percent.**

Over the years, traffic improvement programs have pretty much concentrated on improving road upkeep and traffic controls in order to facilitate the safe, efficient movement of vehicles throughout the City. These improvements have come at the expense of

pedestrians. **A growing pattern of pedestrian/motor vehicle accidents is not so much due to the fact that persons are walking in the wrong places, but that our streets have become less accommodating to pedestrians.**

The failure to address the pedestrian safety problem as the serious threat that it is can be attributed to many factors, including the very car-oriented culture that was created right here in Detroit. A lot of research is expended on traffic efficiency and the protection of persons who ride in vehicles. But automobile companies don't test their cars for impact effects on pedestrians. With research, the severity of such injuries could undoubtedly be lessened through improvement of vehicle designs and materials. Waiting for private industry to address the matter is pointless. Therefore, any effort to lower injury and death rates among pedestrians in Detroit will have to concentrate on traffic control innovations as well as expanded education and enforcement efforts at the local level.

The following are some of the recommendations that the Office of the Ombudsman has repeatedly made for increasing pedestrian safety in Detroit. Most of them can be implemented at very little budget expense. At the same time, they can save lives, improve the quality of life for everyone who lives in or visits the City, and ensure that Detroit remains a successful competitor in the world economy.

-Reducing Pedestrian/Vehicle Conflict



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More than 30 years ago, Detroit planners proposed separating pedestrians and vehicle traffic by constructing a mezzanine level promenade around the Central Business District. Although one or two buildings were actually constructed with space for such a walkway provided, the plan was never realized. Today, even though that idea has become a reality in other cities, we still do not benefit from such a system here. This Office believes that strong efforts to make pedestrian traffic safer through the use of pedestrian bridges, building linkages, or by any other means in high traffic areas, need to be encouraged. Our research indicates that funding is still available for such projects through the Federal

Transportation Equity Act for the 21st Century (TEA21) program, however, all indications are that Detroit will continue to avoid seeking out any funding because it is not capable of providing a matching share of project costs.

While it can be quite expensive linking buildings and constructing pedestrian walkways, the **Office of the Ombudsman believes that there are other financing options that can be explored for generating a local match of finances that might be needed to receive federal funding.** For example, why not rely on Tax Incremental Funding, special development authorities or even private partnerships to contribute any required match? Still, another less expensive, pragmatic solution for reducing pedestrian/vehicle conflict that seems to work elsewhere has been the placing of traffic control devices, such as delayed lights, at intersections that allow pedestrians to cross streets before traffic is allowed to proceed. Use of such lights should not be confined just to the central business and near downtown districts. They also need to become a fixture at many neighborhood intersections.

Over the years, the Office of the Ombudsman has repeatedly pointed out that neighborhood business areas continue to be a source of danger for pedestrians. Many of them are divided by busy traffic corridors and host a variety of conditions that can lead to sudden pedestrian injury. Still, in the last 20 – 30 years, there have been few attempts to adopt new ideas for protecting shoppers who use them. The use of delayed lights and other low-tech traffic calming devices, such as speed bumps and lowered speed limits (enforced diligently) can provide ready solutions. Again their installation costs could be supported by any number of financing strategies that do not significantly increase municipal budget outlays.

On the hi-tech end, in cities like Los Angeles, planners have been using technology to address this problem as part of their city planning process for years. Using a system developed by an Ann Arbor, Michigan firm, the city has installed a microwave sensing system that automatically activates whenever pedestrians are detected crossing the street. These "Smart Cross Walks" are sensitive enough to detect a small child. Once the slightest motion is detected, a signal is sent to activate flashing overhead lights that warn motorists to be alert for pedestrian traffic.

–Utilize Technology to Reduce Red Light Running

Many pedestrian injuries occur in marked crosswalks served by traffic lights. Drivers trying to "beat" the light as well as those making turns routinely cut in front of pedestrians. Study after study have concluded that the use of red light cameras are the most effective way to reduce this problem. However, their value for saving lives and reducing pedestrian/vehicle confrontation continues to be denied as a public safety tool.

A general lack of interest for the use of red light cameras has kept legislators from passing support legislation authorizing their use in Michigan. **Last year the Office of the Ombudsman pointed out that a lobby effort at the state level to allow their use in high-density urban areas where there is considerable pedestrian/vehicle conflict would be an effective tool for safeguarding many to pedestrians in Detroit.** Given the shortages of financial resources dedicated to police activities, the cameras also provide the

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opportunity to free up police officers for other use. Altogether, when the revenue they produce is combined with additional savings that accrue through reductions in property loss, medical costs, and injuries and deaths, it has been calculated that they pay for themselves after only one year of use.

Red light cameras are expensive, costing about \$50,000 each, **but their effectiveness is magnified by the fact that they can be moved to various locations, allowing communities to move them between sites without drivers knowing which ones are active at any given time.** This has a proven effect of calming aggressive drivers when they are in marked camera areas. For pedestrian safety, the use of cameras combined with signals that allow pedestrians time to start across an intersection before turning vehicles may proceed can dramatically reduce incidents of injury and death.

-Eliminate Parking Lot/Pedestrian Conflict

Three years ago, the Office of the Ombudsman recommended that ordinance and zoning laws be revised to address the problem of drivers failing to yield to pedestrians when exiting parking structures and lots. As more parking garages are being built right to the lot lines of existing parcels, the ability of drivers to see pedestrians as well as oncoming traffic is becoming even more of a concern. Therefore, the Office of the Ombudsman is again recommending that action be taken to minimize risk to pedestrians from this threat.

-Protecting the Right-of-Way



Another pedestrian safety problem that the Office of the Ombudsman has identified, but seems to be routinely ignored, is the tendency of parking lots to encroach on pedestrian right-of-ways. For example, every workday in downtown Detroit, pedestrians are still forced to share the sidewalk right-of-way with parked motor vehicles. Frequently, these

sidewalks are also cracked and broken because they are often used as driveways or parking pads. On more than one occasion, pedestrians have been injured due to such conditions.

The Office of the Ombudsman does not know why Municipal Parking Department and Detroit Police Department employees pass by vehicles encroaching on sidewalks downtown every day without issuing tickets to the vehicles or to the parking lot owners. **Again it is suggested that ordinary enforcement action could minimize this liability at no budget expense. An even simpler way to minimize this risk to pedestrians would be to insist that wheel stops be utilized in all parking lots to prevent vehicles from encroaching on sidewalk space.**

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II. Improving Public Transportation Service

–Building Ridership

One fact of providing transportation service is that in the transportation industry, operational expenses decrease as more passengers are carried. Because costs are fixed, it makes economic sense to carry as many passengers as possible per trip – even if they do not all pay the same rate. The Office of the Ombudsman has recommended on many occasions that the department aggressively build ridership through the use of innovations at the fare box. The current basic fare categories, set decades ago, limit any chance of selling the value of using public transit to the general public (which may be one reason why public transit is used by only 3% of Detroiters.) **The recent setback of yet another plan that would have established a regional transportation system should be a wake-up call for the Administration that, along with cost cutting measures, strong efforts to build daily ridership totals are needed.** Promotions such as off-peak discounts, super-savers, “take a friend along”, and a wide variety of strategies are used to attract passengers for trains, airlines, cruise ships, and even private bus lines. There is no apparent reason why they cannot be implemented in Detroit.

–Bus Shelters: First – A Thank You

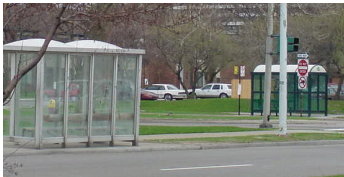
This past year, the Ombudsman's Office has received fewer complaints from citizens relative to the problem of vagrants sleeping in bus shelters. This is due to the inexpensive practical solution that DDOT's Plan Maintenance Division came up with. By simply changing the seating configuration in problem shelters to discourage that practice, it was able to restore them for the safe use of transit patrons.

–And Now

Still, there are additional problems with bus shelters that the Ombudsman believes need to be addressed. Resolving them will not only improve service to transit riders, but could also eliminate unnecessary budget outlays.

Replacement of materials in bus shelters that are stolen for their scrap value continues to drain DDOT's budget. Despite this Office's recommendations in several Budget Analysis reports, the department continues to subsidize the “midnight scrap industry” – which by the way does not pay taxes – at the expense of other uses. Repeated recommendations that the use of materials in shelter construction that are less susceptible to theft for scrap (i.e.: fiberglass, or high strength plastic) have been ignored. The Office of the Ombudsman suggests that the department's inability to let go of what has proven to be easily stolen and expensive to replace needs to be re-evaluated.

–Standard Shelter Design



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DDOT could realize even greater budget savings on bus shelters if the department adopted one standard shelter instead of using the four or more designs that it currently has in use. Because of their differences, the department is forced to inventory a wide assortment of glass sizes for their repair. Use of one standard size would allow the use of fewer replacement inventory parts as well as reduce the expenses currently related to the ordering of custom-cut sizes.

-Keeping things Clean

Finally, a budget question related to the costs of shelter repair is that of their normal cleaning and upkeep. Currently there are about 200 bus shelters in the DDOT inventory. For years, the DDOT has relied on a few City employees, plus citizen volunteers, to handle shelter cleaning functions. However, it is clear that the effort is not working. The repeated number of shelters that remain littered and dirty suggests that it might be time to look for another way to manage the problem.

The Office of the Ombudsman has observed that, over the years, there has been a noticeable decrease in the effectiveness of the volunteer shelter cleaning program. **At the same time, with a very limited amount of City equipment and employees dedicated to that task, the department has achieved impressive results.** Therefore, consideration should be given that DDOT redirect budget resources devoted to the volunteer program into further providing equipment and staff to DDOT for that purpose.

While making this report, we noticed that many of the shelters that we surveyed that were dirty and in need of repair did not belong to DDOT. They actually belonged to SMART! Further investigation found that SMART shelters appeared to be much less frequently cleaned than those for DDOT. Unfortunately, most people don't recognize the difference between the two systems. Therefore, a dirty shelter in Detroit, no matter who the owner, is seen as a reflection on Detroit.

The Ombudsman believes that a solution to this problem might be for DDOT to coordinate the cleaning of both SMART and its own shelters. The additional revenue generated might be a welcome way to increase the department's budget.

DETROIT WATER & SEWERAGE DEPARTMENT:

UPDATE ON CONTINUING PROBLEMS WITH CUSTOMER SERVICE IN DETROIT

Detroit Water & Sewerage Department (DWSD) complaints have consistently appeared in the Ombudsman's Office list of Top Ten Complaints for several years. In the ten year period from July 1991 – June 2001, the complaint category "catch basins/sewer repair" ranked as number eight, and "water systems" repairs ranked as number nine. Last year, the Ombudsman's Budget Analysis Report focused on problems with the billing system, and related problems with Outside Reading Devices which were inaccurately reading residential water meters.

While the Office of the Ombudsman does not agree with much of the content in the recent, widely publicized criticisms of DWSD, we do find reason for concern about some aspects of how the department determines its priorities, delivers the various services, and treats its Detroit customers. Too often, we hear reports of a rude, abrasive, or uncaring attitude on the part of some departmental employees when taking complaints from customers. Such treatment is not only unprofessional, it is in fact counter-productive to providing good governmental service. Even when the news is bad, the way it is imparted to a customer may make all the difference in how that customer perceives the information, and the department.

Specifically, the problem areas of DWSD service delivery involve billings, repairs of water main breaks, and water systems repairs, i.e., restoration of driveways, berms, curbs, and lawns that have been damaged during water main repairs. The continuing problems with some of these issues seem to us to indicate a departmental problem of arrogant disregard of customer concerns, coupled with lack of willingness to address the problems.

Water Systems Restorations: Still Delayed, Still A Problem

"Water systems" restorations too often take place months and even years after the initial water main break and the subsequent major repairs to the water mains. Callers to the Office of the Ombudsman have reported waits lasting as many as three to five years or more for restoration work on their driveways, curbs, berm areas, front lawns, etc. In the past, as noted in our Budget Analysis Report of 1999, DWSD successfully reduced the average length of time between water main repairs and restoration work from three years to one year, but the Office of the Ombudsman still receives complaints about much longer delays.

The problem is two-fold, one being the underlying problem of an aging system, and the other part of the problem consists of the consequent complications: First, the average age of the water pipes and sewers means that there are frequent breaks, especially in prolonged and severely cold winter weather, as we experienced this past season. There are pipes in the downtown area that date back to the 1830's. Clearly, some degree of

wholesale replacement is needed, but the cost of wholesale replacement of 3,400 miles of water mains and 3,400 miles of sewers in the Detroit system would be prohibitively expensive, and some parts of the system have been upgraded over the years. So, as mains and sewer lines break, they are patched, and the very worst are replaced with newer pipes. Continuing breaks to old water pipelines mean continuing side effects: major ancillary damage to sod, curbs, sidewalks, and driveways.

The second problem in addressing water system repairs to private and public property has to do with an apparent unwillingness to devote sufficient resources to this area. By definition, allocation of sufficient resources would provide

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sufficient funding, person-power, and equipment to address the repeating problem of long delays between the initial water main work, and the resulting restorations.

A distinction should be made between water systems restorations made following the replacement of water mains, which are administered by DWSD's Field Engineering Group, and water systems restorations made following the repair of water mains, which are administered by DWSD's Maintenance and Repair Division. In the case of replacements and restoration, the same contractor that effects the replacement of a given water main is required, as a clause in his or her contract with the City, to also accomplish water systems restoration to property damage created by the work. The contract usually specifies that the contractor must double back and do restoration repairs every two to three blocks. Since it usually takes about three to four weeks to execute a water main replacement within two to three blocks, this means the average property owner generally does not have to wait much longer than a month or six weeks for restoration work following water main replacement, depending on the weather and the number of properties which must be addressed.

The complications and the wait worsen with water main repairs. Usually, water main repair work, as opposed to water main replacement work, must be done in the winter season, when water main leaks and breaks are most likely to occur. But restoration work on sod, lawns, driveways, curbs, etc., must be accomplished after the ground thaws, so such work may not begin until long after winter has eased its grip on the City. Further complicating the process is the fact that cement restoration work on driveways, curbs, sidewalks, etc., must be accomplished before any sod replacement work is done, for obvious reasons, and is usually accomplished by outside contractors. Since the ground must be allowed to settle for a time following the initial water main repair, and following the cement restoration work, there may be additional delays between the completion of cement restoration and the sod and lawn restoration work, which is usually done by DWSD employees. Unfortunately, for many other reasons having to do with the aging of the system, the degree and length of cold weather, and the vast size of the system, not all restoration projects are addressed in the same year the damage occurs. In fact, the contractors and DWSD employees who do this type of restoration work are often a year or more behind, because of the volume of

work, the fluctuations of the weather, the need to allow cement work to settle, and the apparent lack of adequate resources assigned to effect the restorations in a more timely manner.

As noted above, this is not a new problem area. Along with catch basins and sewers needing repairs, this complaint area has appeared in the Top Ten complaint list more than once over the past few years. Last year's Budget Analysis Report indicated that Water Systems were number nine on the Top Ten list, and this year, it ranks as number eight. Further, in the ten years between July, 1991 and June, 2001, this complaint area averaged number twelve in the Top Fifteen list of citizen complaints.

These delayed water systems restorations pose not just a major inconvenience for homeowners; they also mean increased liability exposure for the City, as pedestrians are injured, vehicles are damaged, and the claims and lawsuits are filed and ultimately settled.

It has been suggested by DWSD maintenance professionals that the backlog of water systems complaints may be addressed more readily if the major contractors who do this work are required, as a clause in their contracts, to maintain several work crews working different sites at once, instead of concentrating on one section of their respective areas at a time, and then moving on to the next section. If this contract clause were added, according to our sources, it would cost the department slightly more over the first handful of years, but the work load would quickly diminish and ease, customer satisfaction would increase, and the City's liability exposure would decrease proportionately to the repairs accomplished in a timely manner.

Billings: Some Significant Improvements, Some Delays

In previous reports, we analyzed the customer billing process, noting some departmental progress and some room for improvements. (See especially last year's Ombudsman Budget Analysis Report 2002-2003, "Citizens Rendering City Payments Deserve Simple Assistance, Simple Courtesies.") We reported that the Commercial Division, the division

responsible for customer billings⁴, was attempting to deal with 270,000 active accounts in the City of Detroit, utilizing a staff of five persons, despite the fact that 17 positions were allocated in the 2001-2002 fiscal year budget for customer billings. This year, we have learned there is some improvement; currently a staff of nine employees deals with water bill concerns from Detroit residential customers.

Monthly Billing System

We have also learned that DWSD is proceeding with its plans to initiate monthly billings. (Currently, the department utilizes a quarterly billing system.) Water Department managers anticipate that monthly billings will ultimately spur more cooperation and satisfaction and reduce account delinquency. "People are more used to and more comfortable with paying their bills on a monthly basis, and the amounts will be smaller than the customers are traditionally used to," observed one of the department's customer billing representatives. Increased customer cooperation is expected to help reduce some of the unpaid backlog of Detroit bills, recently estimated to be as high as seven to eight million dollars among Detroit residential customers. Thus, any delays in implementation of the new monthly billing system are unfortunate indeed for this beleaguered department and its frustrated customers.

The biggest factor holding up the whole changeover to the new monthly billing system has to do with replacing old outdated Outside Reading Devices (ORD's) with the newer, more accurate electronic meter reading devices called AMR's (Automated Meter Readings). The process for replacement, already initiated, is estimated to take another two or three years. Deteriorating ORD's have been a problem for DWSD and its Detroit residential customers for several years, and the replacement process should eventually solve several problems, as well as advancing the move to a monthly billing system.

Decaying Outside Reading Devices: Still A Problem for Detroiters

In last year's Budget Analysis Report, the Office of the Ombudsman noted that deteriorating and inaccurate Outside Reading Devices (ORDS's) were responsible for many complainants seeking assistance from our Office, some of them quite distraught. The unhappy DWSD customers had recently had their inside meter read, many for the first time in years, and learned that their ORD had been registering inaccurate and incomplete data for a significant period of time. The more accurate inside meter readings then resulted in corrected billings of enormous amounts, sometimes in the thousands of dollars.

ORD readings become notoriously less reliable as the devices age, and most of them in Detroit are over twenty years old. Uninformed residential customers, and there are thousands of them, are not prepared for the shock that awaits them when their inside meters must be read, for example when the ORD ceases providing outside readings altogether and must be replaced, or when an inside meter must be replaced, or when the ORD reading appears inaccurate. The inside meter is read, and often shows a vastly increased amount of water usage, in contrast to the inaccurate and reduced readings available on the ORD.

Addressing the problem, the department began to purchase and install the improved Automated Meter Readings (AMR's). The process of replacement of the ORD's with the AMR's itself results in the problematic inside meter readings which can in turn result in enormous billing increases for residential customers. The DWSD employees who work in the customer billing offices understand this problem very well. They urge a concerted and aggressive outreach effort to educate and prepare customers so that the shock is lessened, and so that customers can make the necessary adjustments in their finances. Such efforts would include notices in water bills, press releases, public service announcements on cable television, separate mailings to customers, and brochures for public handout at Neighborhood City Halls, Police Department precincts, the Coleman A. Young Municipal Center, and recreation centers. Customers must be educated and put on notice about potentially huge one-time increases in their water bills as ORD's are replaced by AMR's, and inside meters are read.

⁴

The Commercial Division has since been reorganized into Public Affairs Division, the division responsible for, among other matters, public and intergovernmental relations.

Water Main Breaks: Questionable Economizing, Adverse Results

Our recent Michigan winter was not kind to Detroit's water lines. Prolonged severe cold-and-thaw periods, coupled with the age of the system, ruptured many water mains and sewers, and created the usual ancillary problems of flooded streets, ice build-up, occasional loss of water power, and lots of unhappy customers. The Office of the Ombudsman found that some residential neighborhoods had to wait up to four weeks for water main repairs this past winter, while the City's water leaked, the ice accumulated, and so did the complaints.

However, it appears that DWSD is perhaps more focused on cost-cutting than on customer service.

Unfortunately, one of the "new approaches" in cost-cutting attempted by the department appears to have backfired. The Director of DWSD has recently been quoted asserting that he has saved the department twenty-one million dollars (\$21,000,000) by canceling nearly all overtime repair work. In addition, the department has not filled over 900 vacant job positions in the last fiscal year. The end result of both these cost-cutting measures is to cause some Detroit residents to wait for several weeks while the water spurts and the ice increases. The Office of the Ombudsman recommends that the department reinstate overtime work for water main repairs, particularly since the workforce is so diminished. It appears to us to be counter-productive, and in the end more costly, to both cease all overtime and refuse to fill vacancies, given all the expenses associated with delayed water main leak repairs.

Ultimately, what makes an efficient water delivery system is clean, non-flooding sewers, water mains, and basements. More replacement of aging and deteriorating water mains should be a top priority.

Conclusion

While not wanting to appear as if we're adding to or encouraging the recently popular criticism of the Detroit Water & Sewerage Department, the Office of the Ombudsman does discern a newer, colder attitude within this and some other City agencies: Complainants, citizens, customers are too often treated with disdain, arrogance, and apparent apathy by DWSD and other agency-employees who often do not have sufficient resources to do their job well. While sympathizing with the employees, a better attitude toward and treatment of City residents is in order, from the top departmental position to the lowliest. Government service means compassionate, consistent, and caring service, as well as effective and efficient service. Detroit's citizens deserve no less.

ECONOMIC DEVELOPMENT ISSUES – CONTINUING THE MOMENTUM

I. The State Anti-Sprawl Effort: An Opportunity for Tax Rate Equity

Governor Jennifer Granholm's recently established Michigan Land Use Leadership Council (MLULC) was given the mandate to come up with a comprehensive land-use plan that will curtail urban sprawl in Michigan. In doing so, the governor joins a growing body of politicians, conservationists, and planners who are promoting the development and redevelopment of communities that combine residential, educational, commercial, and recreational uses in close proximity to each other – so-called "smart communities." The Ombudsman's Budget Analysis Report to City Council in April 2001 highlighted this land use planning movement which has come to be known as "New Urbanism." Our report described New Urbanist philosophy, its good points, bad points, and areas where we believed it could be improved and applied to Detroit's economic growth. New Urbanism potentially has all of the "right ingredients" for rebuilding neighborhood economies. It undoubtedly will be the plan of choice of urban planners and City officials who are looking for strategies that will attract the new workers, residents and industries to ensure survival and economic growth in the 21st Century.

Commenting on the (MLULC) mandate, Senate Majority Leader Ken Sikkema, R-Wyoming, said that council must go beyond land policies and try to discover why so many people move from urban areas to rural areas. To do otherwise, he said, "would be like treating the symptoms of growth and sprawl, but not their cause." (Detroit News, March 25, 2003) Those causes include such problems as increased crime, failing schools, diminishing public services, and high taxes.

There are a number of strategies that, if adopted, could help reduce the inequities that not only cause sprawl, but make it difficult for Detroit to attract the businesses and residents that it needs. Among them, policies that provide fiscal equity in providing basic services would help level the economic development playing field that Michigan's older cities have been forced to compete on.

Only legislative action at the state level can ensure that local jurisdictions are capable of providing basic services at a competitive tax rate. Therefore, it is incumbent that **Detroit work with its older suburbs to push for anti-sprawl policies that include tax reform measures as well as infrastructure repair and housing rehabilitation initiatives.** Following are some recommended policy changes that Michigan's urban areas should work for:

–Tax-base Sharing

The adoption of an anti-sprawl initiative by the state should not only provide impetus for physical development in Detroit, **it can also create an opportunity for the City to reduce some budget expenses through tax-base sharing.** Tax-base sharing is different from

state revenue sharing in that it allows individual taxing bodies to directly share revenue with each other, in addition to the state formulated reapportionments. Minneapolis-St. Paul has successfully been operating such a system since 1967. A study by the Brookings Institute (M. Orfield, Chicago Metro-Politics: A Regional Agenda for Community and Stability 1995) points out that under that system,

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"each city must contribute to a regional fund 40% of the growth in tax revenue from its commercial and industrial tax base. This money then is redistributed in inverse proportion to the amount of nonresidential assessed property in each municipality. At present, about 20% of the Minneapolis-St. Paul regional tax base is shared by this system, and it has reduced tax-base disparities between municipalities from approximately 50:1 to approximately 12:1."

The Minneapolis-St. Paul tax base sharing plan only receives funding from growth in the commercial and industrial tax base. However, if a Michigan plan were to include revenue from residential tax base growth, then as much as 80% of southeast Michigan's population could benefit. Including the residential tax base would diminish inequities as well as reduce the tax incentive for residents to move out of older communities.

-Addressing Existing Property Tax Inequity

Detroit's high property tax rate has constantly been pointed out as one of the greatest barriers to achieving a sustainable competitive economy. Even though property taxes only account for about 7% of yearly budget revenue for Detroit they remain levied at the maximum authorized tax rate allowed by the state. This makes it extremely hard to attract growth engines such as the housing industry and additional job providers unless they are provided hefty subsidies often combined with long-term property and income tax breaks. Of course, that fact only deepens the dilemma of how to meet increased service demands without sufficient tax revenue.

The Citizens Research Council of Michigan points out that Detroit's relative tax effort is nearly seven times the average of Michigan cities, villages, and townships. With tax rates like that, it is not surprising that, except for projects that receive significant tax abatements, there has been very little market rate housing constructed in Detroit. For comparison, a Detroit house taxed on a \$210,000 value would pay about \$7,107 per year on taxes while one valued at \$258,000 in Clinton Township would only pay about \$3,400. **Small wonder that SEMCOG reported that for the two year period, 2000 and 2001, 539 new construction permits were issued in Detroit while 9,187 were issued for demolition.**

The high property tax rates that Detroit levies clearly need to be lowered in order to attract development. Lower rates of taxation would surely attract more investment, which would result in growth in the tax base, eventually producing more revenues than are obtained at higher rates. However, until the state changes the revenue sharing formula that currently is in place and allocates more funding to Detroit, that cannot happen.

Lobbying for changes in the way that the state apportions revenue sharing money could be one way to obtain short term relief to the inequity problem. To be successful though, it will be necessary for Detroit to reach out and form alliances with the older suburban communities that are also experiencing fiscal stress. In his latest book, *American Metropolitcs: The New Suburban Reality*, Myron Orfield observed that, while the older suburbs and central cities (in a study group of more than 4600 municipalities in 25 major metropolitan areas) did receive greater than average state aid, their share of total amount allocated (59 percent) was still well below their population relative to the total population of the state. That, in itself, is reason for cooperation.

The Office of the Ombudsman believes that efforts to join forces with groups such as the Michigan Suburbs Alliance to pursue the common goal of securing increased revenue sharing should be considered. It is imperative that a unified coalition message about the need for additional revenue sharing be transmitted to the Michigan Land Use Leadership Council as well as to the Governor and all state legislators.

-Exploring Tax Reduction Options

In addition to lobbying for changes in the state revenue sharing formula, it will also be necessary to bring Detroit's property tax rate down by exercising other options. Some of them will not be very palatable to special interest groups. But, if we wish to position Detroit's economy where it will be able to benefit from sustainable growth in the 21st Century, additional options will have to be investigated. Following are some options that we believe warrant further study:

- ! Broaden the property tax base by eliminating many of the exemptions that are routinely granted. Allowing a broader collection base will create lower rates. The current property tax base erosion has been the consequence of state and local governments granting partial or total tax exemptions for designated groups.
- ! Tax newer forms of wealth that are attendant to the information-technology, digital and computer industry.
- ! Lower City Charter limits on tax rates that can be charged. The Citizens Research Council of Michigan has suggested that lower rates of taxation would result in growth in the tax base, eventually producing more revenue due to the increased investment that would be attracted.

Bringing about change to property tax rates that can enhance the City's desirability as a place for investment in property will not happen overnight. But if we start now, we will be much closer to achieving that goal in the future. Meanwhile, there are a number of strategies that we believe should be implemented by the Finance Department to address the immediate budget deficit.

II. The Downtown Economy – Avoiding Pitfalls

After more than a decade of allocating the bulk of its energy and money to building a sustainable downtown economy, that development strategy appears to have finally begun bearing fruit for Detroit.

The first of thousands of good-paying, hi-tech jobs are already starting to fill desks in the new Compuware World Headquarters located on the Campus Martius site. Hotel construction and renovation, spurred by the City's Super Bowl selection, are adding greater room capacity to the area. And, high-end loft conversions, now coming on line, offer hope for a stronger residential presence while, hopefully, spurring the conversion of other buildings into more downtown living. While the "24 hour downtown" has still not become a reality, the pieces of the puzzle are moving into place.

There is no question that the loft development and new high end housing that is being created downtown are key elements that have long been needed for supporting a retail and service sector. However, care must be taken to insure that the rush to build up the residential population downtown does not come at expense to the City's fiscal health. **For example, if buildings that incorporate loft living are allowed to retain their commercial tax rate classification, they can significantly lower yearly tax payments to the City Treasury.** This can occur when buildings retain commercial functions on the street level while converting upper floors to loft living. Luckily, careful attention to building use patterns by the Assessors Office can prevent this from happening.

Another practice to guard against is that loft conversion projects downtown do not block or displace other economic uses that might be anticipated. The probability of this happening in Detroit is greater than in other areas of the country because right now the key loft developers are those who have been able to secure local tax breaks, HUD grants, and federal loan guarantees. This potentially

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allows for leveraging additional development options that could tie up choice locations, possibly even displacing existing residents or businesses in the process. However, from a planning standpoint, it might be desirable to protect or set aside commercial space where key suppliers will be able to cluster near major job providers, or where "incubator industries" will be able to get a start in life.

III. Development of a Tourism Industry

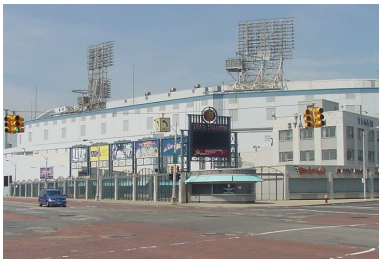
-Casinos

The tax revenue from the gaming industry has proven particularly welcome to the City's stressed treasury. However, expectations that the gaming industry would jump start a tourist sector in the Detroit economy have not turned out as anticipated. For example, recent concessions granted to the three casino operators have reduced the number of hotel rooms they are required to build. Additionally, a \$60 million commitment from the industry that was to be earmarked for neighborhood small business development was altered. In addition, the casinos continue to attract tourists who are primarily day trippers and do not spend a lot of money in the community.

As it is now, even when the permanent casino complexes are constructed, it appears that they will function more as stand-alone destinations, with weak links at best to the surrounding community. We can expect to see that each casino will have retailing, restaurant, meeting space, and recreation (non-gambling) facilities designed to enhance their own fiscal health. Much has been made of the fact that public/private partnerships are going to be one of the key aspects of 21st Century city economic development strategy. However, the Ombudsman's Office does not feel that the private sector (casino industry) will be especially motivated to take on, at their own cost, the building of a Detroit tourist economy. It will be up to local planning initiatives to devise ways to build tourism as a significant contributor to Detroit's economic base.

The Ombudsman's Office applauds the Mayor's proposal to create a new department to consolidate all of the City agencies and activities that attract visitors to Detroit. However, our enthusiasm is dampened by the observation that the focus of the proposed Department of Cultural Affairs and Tourism seems to be more on increasing revenue from existing venues and events than on developing additional resources that can help maximize our tourist economy potential.

-Historic Resources



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In light of the Mayor's stated commitment to maximize the potential of tourist dollars for Detroit's economy, the Ombudsman's Office reminds the administration that it is a proven development strategy to utilize historic resources for developing a strong tourist economy. Failure to recognize that they are another piece in the jigsaw puzzle of economic development causes double loss to the community. It hastens the loss of historic resources that contribute to civic pride and reflects a sense of who we are, and it fails to reap the monetary, as well as social benefits, that can be realized by the City.

The successful and booming cities that are world leaders have recognized the contribution of historic preservation to economic development and have incorporated it into their planning process. Other cities have discovered that linking history with tourism is a sound economic development tool. In Detroit, though, it continues to be left pretty much in the hands of private entrepreneurs to facilitate that linkage. As a result, **the municipal economic development strategy continues to be dominated by the belief that a tourist economy is built up by constructing new attractions. Hence, development dollars are directed towards creating newly built destinations when, in fact, a small amount of seed money directed towards an existing resource could prove equally effective.**

-A City of Historic Neighborhoods

The Ombudsman's Office has repeatedly pointed out that many City neighborhoods, once individual villages and towns, have distinctive architectural and cultural features as well as remaining vestiges of industry and commerce that can lend themselves to support a tourist economy. We can only wonder why there has been no attempt to utilize their development potential.

For example, in Northeast Detroit (Community Reinvestment Strategy Cluster #1) many original buildings from the Village of Norris are standing. This Civil War era town was built by a noted 19th Century American explorer, Philetus W. Norris, who not only blazed some of the original trails in what is now Yellowstone Park, but also is credited with establishing the first civilian detachment of national park rangers. This is just one of quite a few sites throughout Detroit and the region that offer prime opportunities for expansion of Detroit's tourist economy.

Tourism should not just be a "downtown" thing. Creating new attractions that support a vibrant downtown economy is good. But it shouldn't mean that other opportunities are passed up. Certainly, the economic benefits that accrue to shopkeepers, restaurateurs, tour guides, and others as a result of the tourist economy will be just as appreciated if they flow from Detroit's historic neighborhoods as if they come from downtown attractions.

The Ombudsman's Office realizes that tight budgets call for priorities. And maybe the Administration has determined that scarce financial resources have to be devoted to other, more pressing, needs. It's a tough decision to make. But it does not mean that preservation should be placed on the back burner with other issues and left to simmer until it boils away. **There are measures that need to be taken now that do not involve a lot of budgetary expense and could help jump start the use of historic preservation as an effective economic development tool.** Recognizing the contributions that Detroit's historic resources can bring to development of a destination-based tourist economy is one of them.

IV. New Uses for Old Buildings

Once again the Office of the Ombudsman reminds the administration that **current efforts that are now being taken to assemble land and clear all title to it in order to speed up development, should also include a commitment to save significant buildings for future use.** "Land banked" buildings can provide new mixed-use neighborhoods a number of opportunities, as well as create identity and serve as marketing tools. At present though, it appears that the reuse of buildings for neighborhood shopping, recreation, service or living opportunity is not a very high Planning and Development Department priority.

By allowing for the wholesale demolition of buildings that could be saved, we may be needlessly destroying future development opportunity. Nowhere is this loss of opportunity more apparent than in our neighborhood commercial strips where there has been a noticeable inability or reluctance on the City's part to encourage and enable small adaptive reuse projects for empty buildings. This policy has proven fatal for many neighborhoods that have seen large numbers of commercial buildings stand vacant until they have literally fallen down for lack of development strategy.

Neighborhood business districts are not the only areas that can benefit by a policy to reuse vacant buildings. Other cities have reused buildings by focusing on adapting structures originally designed for industrial and goods handling functions to fit the needs of an information based services economy. These "cyber districts" have been able to recycle large empty warehouse districts into important new tax streams for local governments.

Finally, we are very concerned that the wholesale removal of buildings capable of being rehabilitated, without consideration of potential re-use options, can prematurely remove opportunities that could be taken for developing affordable housing.

V. Addressing Poverty and Unemployment

Unemployment and poverty are two of the major impediments to development of a sustainable economy in Detroit. For over 30 years, high rates of poverty and an exodus of jobs from the City have left our local government without enough tax revenue to provide quality services to citizens. During that period, Detroit was able to tap additional funding to make up the shortfall. State revenue sharing funds and federal transfers were used to make up 20 percent or more of the revenue needed every year to balance the budget. Detroit was not unique in the way that it approached the revenue problem. In 1998, over 39% of general revenue for local governments came from federal and state sources (Census of Governments 2002.) Since the economic downturn that started in the third quarter of 2001 and the extreme security measure costs following September 11, 2001 city budgets across the country have suffered. Federal and state governments have reduced cash aid and implemented tax cuts that have translated into significant revenue losses for local governments.

In Detroit, further reduction of the state revenue sharing allocation, loss of revenue tied to sales tax proceeds, and even shrinking funds for federal Community Development Block Grant (CDBG) programs will increase the projected deficit for this fiscal year, exacerbating an already severe fiscal crisis. As a result, hiring freezes and layoffs will tend to reduce the delivery of City services and continue the City's downward economic spiral.

With outside revenue sources drying up, and the City government forced to find ways to halt a climbing budget deficit, it is crucial to have a serious look at what action can be taken to recover more of the economic opportunity that is lost due to unacceptable levels of unemployment and poverty in our community. The permanently unemployed and the "working poor" in Detroit present an economic and social development challenge that must be

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resolved. Until a solution is found for how to address their problems, it is futile to even entertain the notion of creating a sustainable economy for Detroit.

-Budget Costs of Unemployment and Poverty

The effect of poverty and unemployment on Detroit's economy can be calculated by many different formulas. However, most analysts agree that, after netting out intergovernmental transfers, large cities spend 12 to 15 percent of their general budgets on poverty-related issues. In Detroit that figure translates into a minimum of about \$56 million a year. Yearly budget expenses associated with providing corrections, housing, recreation, community development and provision of infrastructure services increase as the percentage of the population in poverty grows. **Nationally, cities with relatively high poverty rates remain high-cost places in which to live and work. Cities like Detroit that have to contend with high rates of unemployment and poverty will continue to remain disadvantaged in the new economic environment that cities compete in. Unemployment and poverty are key issues for the City's treasury and seriously slow economic growth.** The consequences of the huge economic burdens that the City must carry influence location decisions that business firms and workers make based on the correct perception that the private costs of locating in the City will be higher than somewhere else. In order to counter this reality, tax credits and abatements are given which only result in the loss of much needed tax revenue and can worsen the fiscal situation.

-Addressing the Spatial Mismatch of Jobs

Since the 1950's, 80% of new employment in manufacturing, retail, wholesale trade, and the services industry has been shifting to the suburbs. Employment opportunities in blue collar, semi-skilled, and low-skilled jobs moved to the suburbs so rapidly that a surplus of labor in these categories developed in central cities. As job opportunities located farther away from their traditional labor pool in central cities, suburban exclusionary zoning policies severely limited the ability of many low-wage workers to follow.

The legacy of exclusionary zoning is that as business and jobs left the central city area, those who had been left behind were unable to follow, trapped by regional housing patterns that isolated low-wage workers from job sources. As a result, by the year 2000, despite a tremendous reduction in the number of adults living on welfare in the tri-county (Wayne/Oakland/Macomb) area, there was not a similar shift in the percentage of those figures for the City of Detroit.

Additionally, employment studies indicate that the nature of job creation in the Metropolitan Region will likely continue to lead routine and goods production work out of central cities. Thus, the implications for the Detroit economy are that its pool of workers will continue to face a growing gap in skills required for employment as advanced skills jobs move into the inner core. While this is happening, lower skill work will continue to migrate away, exacerbating current economic and social problems of the unemployable work force throughout many of the City's neighborhoods.

A recent study on the dynamics of welfare reform in Metropolitan Detroit (Place, Race and Work: Brookings Institution, September, 2001) concluded that the major way to address the poverty and unemployment burden imposed on the Detroit economy was through policies that can enhance mobility and access to jobs. **Place-based policies such as Empowerment Zones and Brownfield development are important, but local officials**

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need to get involved in conversations at the state and national level to seriously break the pattern that has been imposed on those living in central city urban areas.

Another way to reduce the unemployment burden that is so high in the central city is to encourage practical strategies that aggressively encourage the training and hiring of the local unemployed by the neighborhood business sector. Despite a large drop in overall state and regional unemployment over the past six years, Detroit's unemployment rate has continued to remain unacceptably high. For example, female unemployment in 1998 in the city of Detroit was 7.2 percent, nearly twice the rate for the Detroit metropolitan area overall (3.8 percent).

-Recommended Directions in Employment and Training

In hindsight, it appears that one of the major errors that has been perpetuated in neighborhood development efforts has been the tendency to treat business attraction and revitalization as separate from problems of the working poor and unemployed who live in them. Yet, all ten final Cluster Neighborhoods that make up the Community Reinvestment Strategy (CRS) initiative cited the need for job creation at the neighborhood level. Critics of job training activities that are funded by the City of Detroit maintain that there is no attempt by the City to work with neighborhood businesses and tie them into the untapped labor pool that exists in their own back yard.

Again this year, we note the pressing need for creation of a neighborhood-based mechanism for creation of employment opportunity that meets the needs of both trainees and local employers. **Job creation for residents is undoubtedly one of the most important tools for redeveloping neighborhood economies that can be used. For neighborhood economies to grow, there must be opportunity for employment, management, and, ownership of business establishments by the persons who live there.** Neighborhood-based training and employment service centers could be located in each CRS area. These centers can concentrate on developing the neighborhood's assets – the unemployed.

-“Off-Budget” Funding: Community Computing

Another strategy that the Ombudsman's Office has advocated for reducing the unacceptable poverty and unemployment rates that handicap such a large part of our population and doggedly impedes economic development is that of providing broad computer access directly to those who are the hardest to reach now.

Community computing, bringing information and communication technology to a broad audience in order to allow them to enhance their skills, has never been implemented on a large scale in Detroit. However, the Office of the Ombudsman believes that this is one more building block that needs to become part of our economic development strategy. Successful community computing initiatives have been undertaken in cities such as Cleveland, Ohio and Boston, Massachusetts. For example, Boston's "Community Technology Centers" program funded by a private fund has helped build and endow some 40 centers throughout the city. Rather than footing the bill for implementing this strategy, cities have resorted to innovative "off budget" solutions for financing community computing.

"Off-budget" financing strategies are those which do not directly impact on the budget of a city. **"Off-budget" financing is the process of obtaining public program funds through cash and non-cash contributions**

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from the private business sector or other non-public entities on the community. The Office of the Ombudsman strongly believes that "off-budget" efforts to expand computer access directly to

neighborhoods that are suffering high unemployment and poverty rates could have immediate as well as long term positive benefits to the economy. The only way that citizens who are permanently unemployed and are trapped in poverty will be able to break out is if they are able to capitalize on the proven linkage that exists between computer skills and better jobs. Any effort to establish a community computer program that targets all Detroit citizens will greatly reduce the barriers that individuals, families and neighborhoods currently have from participating in our technology based economy.

The challenge of obtaining private funding for "off-budget" programs can sometimes prove to be a difficult task. However, it has been shown that it is not impossible, especially if the project can be linked to the vested interest of a specific industry. Therefore, it does seem that Detroit, headquarters for one of the nation's leading computer firms, might find success in raising funds for such a venture.

VI. Collecting Monies Owed

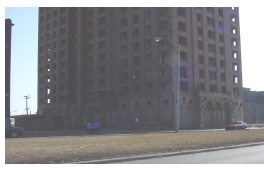
Detroit's Chief Financial Officer recently acknowledged that collection efforts would soon be intensified as part of a strategy to collect some of the \$80 million to \$328 million dollars owed to the City coffers by delinquent taxpayers and water customers.

Tax delinquency has played a major role in the long term decline and divestment of property Detroit has endured. We applaud any equitable effort that can result in the City recouping money owed by businesses as well as residents. However, success of collection activity would be greatly improved if the notification of delinquency action and initial collection process started sooner. What steps are being taken in this direction?

In addition to collecting outstanding debts from tax liens and water bills, we believe that the City should more aggressively pursue collection of building code violation fees and other assessments that currently remain outstanding every year on many taxpayer bills. San Antonio initiated such collection efforts two years ago. In 1995, the City of New Orleans followed up on a property tax amnesty program that also included use taxes, sales tax, hotel and motel tax, amusement and parking taxes, occupational license taxes, etc. As a result, almost \$5 million dollars was recouped. San Antonio also realized another \$1.5 million through its own lien and code violations collection activity titled "Project Clean Slate."

Finally, the City should also consider the feasibility of collecting property taxes on a monthly basis. The Ombudsman's Office realizes that providing tax billings to participating property owners could be a costly undertaking if it required monthly mailings. However, we believe that there are effective ways to minimize costs. For example, coupons could be enclosed with yearly tax statements that citizens could "cut and send" each month. Also, a fee could be charged monthly to participants that would cover any increased costs to the Finance Department for program administration. One of the advantages of monthly payments is that taxpayers would be able to avoid the large shock to their budgets that they now go through once or twice a year, while the City would be able to look forward to more timely tax receipts. Another benefit might be that an informal type of early warning system would be created by the monthly payment process so that homeowners having difficulty making them would be alerted that it might be wise to restructure their finances before taxes become delinquent, and before the City's tax revenue is affected.

THE AFFORDABLE HOUSING CRISIS IN DETROIT
A RISING TIDE



The need to finance the preservation and construction of affordable low-income housing has never been greater in this country. Yet, the department of Housing and Urban Development (HUD) proposed 2004 fiscal year budget that is currently pending in Congress will eliminate and divert a substantial amount of the funding that has been historically dedicated to this purpose.

Under FY 2004 (HUD) guidelines, Section 8 rental voucher funding now paid directly to local housing authorities will be shifted to state control. Affordable housing advocates point out that such "load shifting" will burden state budgets that are already struggling with deficits, and that the wide variety of standards that states use to choose who qualifies for housing subsidies will greatly lessen the opportunity for even more low-wage earning households to continue living in housing that they can afford.

The Joint Center for Housing Studies of Harvard University noted in a recent report, "The State of the Nation's Housing 2002," that the economic boom of the last decade has done little to improve the lot of this nation's more than 20 million poorest households. For low-wage earners, the soaring rise in home prices and rents have created a serious roadblock for gaining or even holding onto, affordable housing.

Even during the economic downturn of the Bush administration, housing starts have remained one of the elements that remained robust enough to dampen many consequences of the falling economy. Nationally, new housing construction has proceeded at a rate of almost 2 million units per year since the late 1990s. However, most of these have been built for middle-class families and located in greenfields adjacent to large metropolitan areas.

Still, a robust housing economy has been unable to change the fact that today more than 15 million households across the United States must continue to pay more than 30% of their pre-tax incomes for housing, much of which is structurally unsound and overcrowded. In the year 2000, the Department of Housing and Urban Development (HUD) report:

"Rental Housing Assistance - the Worsening Crisis", found that more than 5 million low-income families devote more than **half of their income** for housing, or live in severely distressed conditions. **Making matters worse, large amounts of affordable rental housing units continue to be lost as apartment owners prepay mortgages or choose not to renew HUD federal subsidy contracts.**

The future for any growth in affordable housing units appears to be getting even bleaker at the federal level. For example, the 2004 HUD budget sent to Congress by the current Administration would also terminate funding the

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HOPE-VI, also known as the Urban Revitalization Demonstration activity (demolition, replacement, and rehabilitation of public housing units). Adding insult to injury, \$200 million of the funding cut will be earmarked as a set-aside for the proposed "American Dream" home buyers down payment fund, a program that the majority of low-wage earning households will never be able to qualify for.

The Office of the Ombudsman believes that something is clearly wrong when the number of households in America lacking access to decent affordable housing continues to grow while assistance programs designed to drive moderate income home ownership rates up become the major focus of national housing policy.

U.S. government press releases, commenting on the 2004 HUD budget, mention homeland security and defense spending requirements as reason for decreased investment in affordable housing. It also argues that the shift of Section 8 funding into Community Development Block Grant (CDBG) programs will give states more flexibility in addressing problems posed by under-use of housing vouchers in certain markets. **To many affordable housing advocates though, the change appears to signal that the federal government, while still willing to push for home ownership through tax credit and down payment assistance programs, attaches little importance on preserving and constructing affordable low-income housing for Americans.**

Sheila Crowley, National Low-Income Housing Coalition (NLIHC) President, commented that the proposed 2004 HUD budget shows that:

"There is almost no emphasis on solving the affordability problems of the people with the most serious problems. The administration has really been very passive about that, if not neglectful." (Affordable Housing Finance Vol. 10 No. 10 Nov./Dec. 2002)

For the immediate future, then, the nation's urban centers remain confronted with the fact that HUD's approach to meeting the affordable housing crisis among low-wage earning citizens will focus on promoting the more politically rewarding programs that deal with home ownership as well as providing funding for sheltering the chronic homeless. Any chance of securing vital funding for the preservation and construction of affordable housing through federal channels will remain relatively non-existent.

Since the mid-1990s, the state of Michigan has seen more new housing constructed than any other state in the Midwest and Northeast regions of America. The overwhelming majority of these units have been detached single-family homes that were built in low-density areas to serve middle- and higher-income buyers. **As a consequence, a brisk real estate market in the metropolitan area has masked the fact that access to affordable housing is diminishing for low-income home buyers as well as renters.** Gentrification and new construction are continuing to reduce the choices of housing available for low-wage earning residents. Not only do rising home prices impose affordability problems on low-income buyers but recent construction and rehabilitation projects have done little to expand the supply of affordable rental units. New multi-family rental construction largely targets the mid-to-high income wage earners. The Detroit News pointed out ("High Rents Squeeze Poor", August 7, 2001) that in some areas of Metro Detroit, rents have as much as doubled over a five year period. This has had a devastating impact on the economy of "working poor" families.

In Detroit: The Crisis Grows



Even though poverty rate statistics have dropped in Detroit, many persons who are actively working continue to struggle just above the poverty level in order to make ends meet. These “working poor,” employed in low wage industries, are unable to afford market rental rates and swell the waiting list for Section 8 vouchers. HUD estimates that 10% or more of Detroit’s working families above the poverty threshold are included among the 51,000 households that face critical housing affordability problems in Detroit.

The Michigan State Housing Development Authority (MSHDA) estimates that 62% of the households statewide experiencing affordability problems are renters who live in the central cities of Michigan’s nine major urban areas. MSHDA asserts that more than 670,000 households can be classified as “housing needy.”

The National Low-Income Housing Coalition (NLIHC) estimated that as of the year 2000, the estimated percentage rates of households in Detroit who were unable to afford to pay fair market rent to live in housing adequate to meet their spatial needs were as follows:

One Bedroom:	34%
Two Bedroom:	40%
Three Bedroom:	50%

It is also estimated that almost one-half of the renters that the Detroit Housing Commission serves are making do with smaller living quarters than recommended. The Commission supplies about 5,800 public housing units. However, a high vacancy rate due to demolition and renovation activity means that, in reality, the actual number of units available is from 25 to 40 percent less. Another 5,000 units are provided through Section 8 vouchers and rent certificates by the Commission. **As of the year 2000, the Commission reportedly had an additional 15,000 households on its waiting list for public housing assistance.**

Existing Barriers to Affordable Housing in Detroit

As we have pointed out in previous reports, the affordable housing crisis in Detroit has its roots in a variety of social, economic and political decisions made over the past five decades. **Exclusionary zoning, urban sprawl, and the departure of low-income jobs have all contributed to the problem.** These actions have shaped a de facto regional policy that affordable low-income housing will be provided by the devaluation of central city neighborhoods. This policy has become a self-activated process whereby housing values that rise in one city neighborhood are balanced by displacement and disinvestment in surrounding ones.

As higher income households depart central city neighborhoods, the number of banks and investors who are willing to finance the construction or rehabilitation of low-income housing decreases. Also, rising vacancy rates – well above the

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optimal 6 percent for rental units and 2 percent for owner occupied housing that investors tolerate – significantly discourage residential building in Detroit neighborhoods.

–Land Value



In addition to the political and social barriers that have contributed to the affordable housing crisis in Detroit, another major influence has been land economics.

Unlike many other cities where the high price of land acquisition poses a barrier to construction of housing affordable to low and even moderate-income residents, Detroit actually has so much vacant land that developers find it difficult to leverage their parcels in order to obtain project funding. Thus, it is nearly impossible to build below market-rate housing without substantial tax credits, low cost loans, and even grants.

–Assembly

This Office is aware that the Administration is making progress in the effort to speed up housing development by assembling parcels and clearing title to tax- reverted parcels that are already in its own inventory. In addition, it is taking the initiative to better coordinate and, hopefully, shorten the cumbersome transfer process that has been followed when parcels under control of state and county government are involved. But perhaps even more should be done to facilitate that process. For example, there are many privately owned parcels that have municipal liens placed on them that are far in excess of their appraised value due to previous demolition action or brownfield clean-up costs. These privately held parcels can prove to be real “deal killers” for development initiatives by causing time delays that can create unacceptable project costs.

State or local legislation to allow the seizure and sale of properties that have unpaid delinquent assessments that are significantly higher than their land value needs to be explored as an answer to that problem. Philadelphia, PA has combined this approach with its eminent domain laws to form a Neighborhood Transformation Initiative program (NTI) which will deliver 4,000 vacant lots to housing developers this year. The program, funded by a \$300 million bond initiative, will bring between 4,000 and 5,000 properties a year into city of Philadelphia municipal ownership and pass them to land developers.

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-Taxation

Finally, even the way that land is taxed can be detrimental to affordable housing development. Vacant land that is taxed at extremely low rates provides little incentive for owners to construct affordable housing units on it. As a result, speculators buy and hold parcels – waiting for that big project to come along where they can make a “killing.” Mayor Coleman A. Young’s Committee for the 21st Century recommended, in 1992, that vacant privately-owned land should be taxed on its potential use. Although the Committee directed this observation towards land in Detroit’s Central Business District (CBD), the same holds true for vacant land in the neighborhoods that has not been purchased for use by adjacent homeowners. Cities such as Philadelphia, PA have adopted this strategy and realized substantial development activity as a result. This may be an idea worth exploring in Detroit as well.

The Pitfalls of Zoning

The Office of the Ombudsman recognizes that there is justification for separating various types of land use for the **safety and welfare** of citizens, but it makes little sense to restrict the multiple use of land and buildings when residential use can co-exist with commercial activity. In addition, the practice of re-zoning parcels of land to encourage commercial development – or even worse – allowing the illegal incursion of non-residential use at the expense of housing takes away opportunity to preserve affordable housing. One only has to look at the expansion of junkyards and similar land uses throughout the City to realize how zoning – or the lack of enforcement – becomes a factor for blocking and eliminating affordable housing development.

Materials and Building Costs

One of the most effective ways to increase the amount of affordable housing is to reduce building costs. **Finding ways to reduce the cost of housing production could become even more important than seeking financial subsidies for construction as both federal and state government look for ways to trim spending in the years ahead.** For this reason, the Ombudsman believes that the use of innovative materials and building techniques should not be routinely prevented by requiring strict adherence to outdated material specifications.

For example, resistance to the use of manufactured housing in urban neighborhoods needs to be examined in the light of the cost savings that can be realized with their use.

Five years ago we encouraged the previous administration to more readily accept manufactured housing for Detroit’s housing strategy. We pointed out that while it cost \$27.83 per square foot to build a manufactured home, the price jumped to \$58.11 per square foot for a standard, single-family frame constructed home. Except for a few non-profit, grant funded construction projects, there has been little effort to weave the use of manufactured housing into the fabric of neighborhood planning. **Manufactured housing is a viable vehicle that can be used to address the affordability crisis that Detroit homeowners and renters face.**

To gain an idea of the impact that manufactured housing could have on the affordable housing crisis in Detroit, consider the following: In Michigan the average sale price for new and pre-owned houses is \$134,058 (Michigan Board of Realtors, 2001). Manufactured housing is more reasonable than traditional housing, averaging \$31,800 for a new, basic unit and \$50,200 for a larger unit with more amenities (National Housing Conference); used units cost less, of course.

Manufactured homes of high quality can be produced quickly in a controlled factory environment; their relatively short construction time (compared to stick-built) combined with innovative materials and construction techniques, translate into home prices much more affordable to low-income home buyers.

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Another zoning strategy of proven value for ensuring the construction of affordable housing is that of adopting inclusionary zoning laws. Inclusionary zoning laws are just what they sound like. They have proven to be an effective means of tying development approval for certain construction to the provision of low-income housing as a requirement for approval. **These land-use regulations increase the opportunity for low-income homeowners to live in mainstream neighborhoods by linking the construction of affordable housing in the community to the building of private market-rate units.** Sacramento, California has used its ordinance to ensure that 15 percent of new construction in growth areas are rented or sold to low and very low-income residents. Carrots offered to developers who participate often include:

- The expediting of building permit services.
- Density bonuses that allow builders to construct more units.
- The waiver of certain permit fees.
- Modification of planning and utility standards for projects.
- Preferences in obtaining local public funding that can be used by developers to leverage tax credits, mortgage financing, etc.

Linkage Programs

Less politically charged than Inclusionary Zoning Ordinances, Linkage Programs require a developer to either contribute equity funds to low-income housing construction in the area or pay a fee into a designated housing trust fund. Some critics have likened this approach to that of the state Department of Natural Resources (DNR) practice of letting developers “swap” wetland areas. But proponents argue that with linkage programs, the benefits are far more equitable. Also, unlike Inclusionary Zoning Ordinances, they ensure that all types of construction or economic development projects contribute to the common goal of establishing affordable housing.

Multi-Family Zoning

Detroit prides itself on being a city of homeowners. At one time, before “hurricane HUD,” it led the nation in the number of single-family residences owned by citizens. Unfortunately, it appears that a zoning preference remains for single-family home construction that now seriously restrains the development of affordable housing.

Zoning laws established to limit density, when Detroit was expanding with a population nearly twice what it is today, need to be changed in order to allow an increase of the affordable housing supply on many lots that are currently zoned solely for single-family homes.

Some cities have met this zoning challenge by creating composite zoning neighborhoods where greater household density and waivers on parking space requirements are allowed. Linkage to mass-transit nodes at these locations is seen as one of the ways to “make them work.” In others, steps have been taken to expedite affordable unit construction by **creating a mechanism whereby zoning permits may be granted for specific models of multi-family dwellings that can be awarded to developers “by right” rather than on a time consuming case-by-case basis.**

If affordable housing is ever to be constructed in quantities sufficient to meet the needs of low-wage earner households, then zoning codes will have to be created that eliminate the institutionalized bias against such construction.

Pressing Need for a Policy Initiative

In reality, there has been very little effort to exploit the impact that a dedicated initiative to resolve Detroit's affordable housing crisis would have on the Detroit economy.

More than six years have passed since release of the Community Reinvestment Strategy (CRS) Cluster Reports in which citizens identified the need for neighborhood housing redevelopment as a "critical" issue. **Each one of the ten cluster areas expressed an eagerness to make affordable housing a key part of their agenda. This sentiment displays a startling lack of the NIMBY (not in my backyard) attitude so common in other cities.**

From the economic end alone, affordable housing projects make sense for economic growth. Just \$500 million dedicated to building activity would conservatively generate up to 12,000 new jobs. The National Low-Income Housing Coalition (NLIHC) estimates that for every 1,000 multi-family homes constructed 1,030 jobs are generated as well as \$33.5 million in wages and more than \$17.8 million in federal, state, and local tax revenues and fees are realized. Besides the multiplier effect these funds create in the community, the steady property tax stream that remains in place long after the last nails are driven creates a budget resource for local communities that is a welcome addition to municipal finances.

Affordable Housing Now

The Office of the Ombudsman believes that there are steps that can be taken right now to create affordable housing for Detroit's low-wage earning households. Waiting for Washington or Lansing to fund any significant initiative will only continue the ongoing displacement of low-income residents from neighborhoods as well as eliminate further housing location choices for them.

Following are a number of strategies that we believe can be pursued in order to ensure that low-income households are guaranteed the chance to share the opportunity of "living in Detroit." These are just a few of the many steps that we have advocated over the past eight years. They are being recommended here because we believe that they are very feasible within the parameters of Detroit's current fiscal limitations.

Maximizing the Opportunity for Affordable Housing

The old saying that goes something like "when life hands you a bunch of lemons, make lemonade" is extremely relevant for the future of affordable housing in Detroit. In this case, the lemonade is made by aggressively following up on paperwork!

For example, while proposing to eliminate the HOPE-VI public housing program from its FY 2004 budget, HUD announced that it would make available another \$6 billion for local public housing operating funds and housing capital funds. **We recommend that the administration needs to follow through with the necessary paperwork in a timely manner to capture a "fair share" of this money for Detroit.** Similarly, the channeling of Section 8 voucher funding through the states, rather than sending it directly to local public housing authorities (PHAs) is according to HUD, a way for states to provide more flexibility in addressing the problem of underutilization of housing vouchers in certain markets.

Again, we urgently recommend that quick action be taken by the City to capture the maximum number of vouchers available for use by its citizens.

Leveraging Tax Deposits

Last year we reported how Cuyahoga County, Ohio deposits 10% of collected tax receipts in banks that pay below market rate interest (with no greater than a 3% difference.) These banks then provide below market rate loans for housing rehabilitation to low-income homeowners. Over a two year period, it is estimated that by foregoing \$1-1/2 to \$2 million in interest the county helps make available about \$35 million to upgrade almost 4,000 low-income homes.

Two years ago, the Ombudsman's Budget Report caused quite a stir when we reported that the City held at least \$20 million in property tax collections that had not been refunded to citizens. How the money accumulated is a result of many causes.

From what we have been led to understand, all of that money must be placed in a non-interest bearing account, the intent of the law being to discourage municipalities from sitting on refunds in order to increase revenue at the taxpayers expense. However, if it is determined that the unrefunded property tax monies cannot be fully refunded to the taxpayers, this Office wonders if any effort can be made to discover whether or not that money can legally be used to benefit public purposes.

Right of First Refusal and Equity Cooperatives



"Right of first refusal" is an affordable housing strategy that private developers lobby against.

Under "right of first refusal" ordinances, property owners who hold government backed mortgages and plan to sell their property must first offer to sell it to tenants or non-profit community groups. This legislation has proven very beneficial to low-wage earning tenants in HUD financed properties when owners decide to go market rate. New York, Chicago, and other large cities have employed these ordinances to help low-income citizens retain affordable housing in the face of gentrification. In Chicago, for example, apartment residents have been able to use the "right of first refusal" to purchase buildings and turn them into equity cooperatives.

The value of equity cooperatives has never really been exploited for the Detroit affordable housing market. **Equity cooperatives are formed when people come together, pool their resources to buy and renovate (or build) a building or a set of houses.** In addition, they share responsibility for upkeep, improvements and the administration of the cooperative. It is a proven tool available to low-income persons that alleviates their housing affordability difficulty while empowering them to obtain safe, affordable housing. One reason they have not been used much in Detroit is that there were not enough of them – like in New York and Chicago – to attract the interest of mortgage lenders. Within the past few years though, equity lenders have cracked the Detroit market. As of now, there are at least three major private equity mortgage companies active in the Detroit market writing paper for cooperative housing. As a result, many low-wage earner households would be enabled to acquire housing and build property equity if Detroit were to pass a right of first refusal ordinance.

An Innovative Funding Initiative – The Affordable Housing Trust Fund

Although they are relatively new financing vehicles, a fair estimate would be that **about 180 affordable housing trust funds are currently in operation throughout the United States**, including 37 that are state agencies, 39 county, and 34 that are municipally managed. Their assets vary in size from just a few million dollars to more than hundreds of millions of dollars each.

National and State Trust Funds

In 2002, the U. S. Conference of Mayors made affordable housing its leading issue. Recommendations from its National Housing Forum meeting in May, 2002 blueprinted a comprehensive plan of action for developing housing opportunity as a national priority. **A key section in their recommendations was the establishment of a national affordable housing trust fund to provide a reliable and dedicated stream of funding to address the housing needs of primarily those with very low incomes.**

The National Low-Income Housing Coalition (NLIHC) joined the Conference of Mayors in urging the federal government to place housing among the issues at the top of the national agenda, assigning it the same priority as crime and education. But HUD Secretary, Mel Martinez, is apparently unconcerned that his department failed to spend some \$300 million to repair older Section 236 properties; at a National Press Club appearance in 2002, he did not even know that Section 236 program existed. With the federal administration's

obvious lack of interest in preserving affordable housing, it is clear that financial help for preserving and constructing housing that is accessible to low-wage earners in Detroit should not be expected to be forthcoming from Washington any time soon.

Affordable housing trust funds establish a dedicated stream of revenue to provide funding for construction and rehabilitation of low-cost housing. **Michigan does not have an affordable housing trust fund.** Instead it utilizes a mixture of Michigan State Housing Development Authority (MSHDA) programs for **all types of housing**. These programs are supported by tax exempt bonds and notes as well as by federal money from Home funds, CDBG's, emergency shelter grants, and various other financing sources that can be uncertain.

While the time has never been more urgent for an affordable housing trust fund in Michigan, the current fiscal climate does not bode well for that to happen. Legislation (H.B.'s 4682-84) has been introduced in the state legislature to create a state housing trust fund that supposedly will focus on the housing needs of low-income, very low-income, and extremely low-income households. However, the bills do not establish a dedicated revenue source. Because of that flaw, they will probably not be passed into law. **During times of fiscal uncertainty, bills that can only refer to "potential" appropriations and contributions as revenue sources stand very little chance of success.**

Given the poor prospect of receiving money in the near future from either federal or state sources, what can be done at the local level to implement a program capable of financing the supply of affordable housing needed in Detroit?

Local Affordable Housing Trust Funds

San Francisco's Mayor, Willie Brown, Jr., has said that the first step in tackling the affordable housing problem is to "put a large sum of money on the table" (Affordable Housing Finance – September 2002.) Although he had been successful in securing HUD money and linkage fees from construction in the city for affordable housing, it wasn't until he was able to get voters to pass a \$100 million bond measure in 1996 that the Mayor was able to put together a successful affordable housing program for the people of San Francisco.

In 2002, San Francisco's Mayor went back to the people – asking them to authorize another \$250 million to expand on the work that was started. The original bond measure had focused heavily on rental housing, because San Francisco is

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primarily a renters' city. However, the new bond initiative greatly expanded the potential for home ownership opportunity. The proposal was approved by 55.75% of voters in the city, but fell short of the two-thirds majority it needed to pass. **Instead, voters approved a \$1.2 billion affordable housing trust fund bond on the state level that is the largest housing**

bond in U. S. history. The affordable housing measure was strongly supported by over 1,000 affordable housing and homeless organizations state-wide, as well as community investment groups, such as the Charles and Helen Schwab Foundation.

The California fund will assure a level of affordable housing in San Francisco as well as throughout the rest of the state. This includes \$910 million for rental housing for low-income seniors, disabled persons and families with children; \$495 million for home ownership programs, including sweat-equity housing and down payment assistance for low- and moderate-income families; and \$390 million for emergency shelters and permanent housing with support services for homeless seniors, battered women, mentally ill people and veterans. Altogether more than 145,000 low-wage earner families will be able to benefit from the fund.

Julie Snyder, Director of Policy for Housing California, a statewide coalition of more than 1,000 affordable housing and homeless organizations, pointed out that the fund, besides providing necessary housing, will provide additional economic benefits to communities. **"Having the bond money available to help developers build new projects can help make the overall development process less expensive, she explained, because not as much money will be spent doing preliminary work on projects that never get funded."** (Affordable Housing Finance – September 2002.)

Whether it is on the federal, state, regional or local level, **the attractiveness of affordable housing trust funds is that they provide a dedicated source of uninterrupted revenue to provide funding for a variety of housing activities.** Dedicated revenues can be from bonds, taxes, fees or a number of other income sources. Of course, the higher the level of government participation, the larger your revenue stream can be. That is why organizations such as the National Low-Income Housing Coalition (NLIHC) are pushing for a nation-wide fund. (H. R. 1102 – The National Affordable Housing Trust Fund Act of 2003.) If adopted, it could build and rehabilitate 1,500,000 units of affordable housing in America over the next ten years.

The Office of the Ombudsman believes that the time has come to move forward and establish an Affordable Housing Trust Fund in Detroit. Like the city of San Francisco and the state of California, the administration could explore using a general bond issue as a vehicle for implementing affordable housing goals. Given the current investment climate, **strategies like linkage fees and set-asides (where a percentage of all new construction must be set aside for low-wage earners) are extremely hard to press for when there is not intense demand for market rate units.**

Financing a Detroit Trust

In addition to passing a bond issue, there are additional strategies that can be used to create a dedicated funding stream for an affordable housing trust fund. For example, with state help, a sales tax increase could be dedicated to financing the trust. Raising sales taxes are usually seen as unfairly increasing the tax burden on the poor – in this case the very ones who an affordable housing trust fund would be trying to help. However, some states have managed to remove that burden from households by linking sales tax increases to refundable earned income tax credits (EITC) to low-income families.

The Center on Budget and Policy Priorities in Washington, D.C., has even pointed out in a recent study that: "Emerging research shows that many EITC recipients use their EITC refunds not only to meet day-to-day expenses but also to make the kinds of investments – paying off debt, investing in education, obtaining housing – that enhance economic security and promote economic opportunity."

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Sources of dedicated revenue funding that could be considered to finance an affordable housing trust fund in Detroit include setting aside portions of real estate transfer taxes, document recording fees, gaming revenues, and even dedicating unclaimed utility deposit fees for that purpose. Following are a few additional revenue sources that the Office of the Ombudsman believes could be successfully developed at the local level.

Corporate/Business Support

The Office of the Ombudsman believes that efforts to enlist more corporate and business investment in affordable housing should be encouraged. We don't have to look far to see how voluntary private corporate/business sector contributions can fund major public development efforts. Detroit Renaissance recently announced a \$25 million initiative that will provide a dedicated source of revenue to fund four major projects. These include park and river front development; however, a large portion of that money will be dedicated to housing issues in Detroit. \$7 million will be used to seed a \$20 million gap financing fund. Gap financing will be used to make it economically viable for housing construction focused on drawing middle to upper-income residents to residential development in the lower Woodward Avenue neighborhood downtown.

In Boston, Massachusetts, Hotel Workers Local 26 were able to bargain with major employers in their industry for contributions to an affordable housing trust fund for their members. And, the Archbishop of Boston has organized a similar collaborative initiative to help relieve that city's critical affordable housing crisis that is increasingly forcing low-wage earning householders out of the housing market.

This Office believes that further action to identify funding resources for an affordable housing trust fund are called for. Creation of a multi-source funding base could be used to leverage state grants, low-interest loans, and local banking funds to provide thousands of affordable housing units to Detroit citizens.

Pension Fund Investment

Pension fund investing in affordable housing projects is a growing phenomena in the marketplace. Traditional lenders have retreated from this market segment due to passage of the Financial Institutions Recovery and Rehabilitation Act (FIRREA), passed in 1990, as well as the new capital requirements policy of the National Association of Insurance Commissioners that discourage the industry from making real estate loans.

Certainly efforts to cultivate direct participation in a trust fund by pension fund investors is worth exploring. The sheer size of funding that they can provide is capable of supporting the large up-front cash reserves necessary to get things going.

More than likely though, any effort to attract private capital for support of a Detroit affordable housing Trust Fund would have a better chance seeking out equity pool investors rather than one large fund.

For example, one investment trust that we know of, whose predecessor company was founded in Detroit, raises more than \$50 million a year in equity financing for affordable housing. As a Fannie Mae DUS lender (dedicated underwriter and servicer), this group has become a nationwide franchise for providing operational capital to affordable housing funds. The trust represents an additional way that local government commitment to affordable housing can receive steady financial support. The trust manages institutional assets as a commingled entity that invests in construction and permanent financing for projects that qualify for low-income tax credits and other incentives. Through investment trusts, government pension funds including the City of Detroit Public Employees fund, the Detroit Police and Fire fund, and the Wayne County Employees Fund have been able to participate in financing affordable housing with shared risk, while enjoying sound returns for their portfolios.

A Choice for Affordable Housing

Detroit is not unique in the fact that it faces a tremendous shortfall of affordable housing for its low-wage earning households. Across the nation communities are experiencing similar problems and looking for ways that federal, state, and their own resources can be used to address the issue. As we have seen, though, the federal government's unwillingness and the state's financial limitations make it highly unlikely that any help will be forthcoming from those quarters. **Waiting for them to fund any significant initiative will only continue the displacement of low-income residents from neighborhoods as well as the elimination of available housing location choices.**

There are steps that can be taken right now to create affordable housing for Detroit's low-wage earning households. One of them that is proving to be workable for other cities as well as capable of remaining financially self-sustaining is the Affordable Housing Trust Fund.

States and cities where affordable housing trust funds have been established report that in addition to meeting the needs of low-wage earners for safe, clean, affordable housing, the funds have spun off significant economic benefits such as additional job creation, increased sales and property tax revenues and other economic benefits that come with more households participating in the daily activity of the city.

The Office of the Ombudsman believes that an Affordable Housing Trust Fund can provide an excellent way to halt the displacement of low-wage earner families from our city. Combined with other actions such as zoning and tax initiatives, can allow for sustainable production and preservation of housing opportunity for low-wage earners. It can also allow for new production and preservation agendas to be implemented that are not based on simple market-side solutions, or dependent on federal and state funding.

Confronting the housing affordability crisis in Detroit will not be easy. But, until we are willing to ensure the growth, development, and education of all citizens by adopting strategies that promote inclusion and fairness, we will never really be able to realize the full economic and social benefits for our community that can make Detroit a world class city.

OFFICE OF THE OMBUDSMAN
TOP TEN COMPLAINTS: DISCUSSION AND COMPARISONS
JULY 2002 – MARCH 2003

1. **Vehicles:** Abandoned/Inoperable/Illegally parked on Public/Private property

Once again, the complaint category of abandoned inoperable vehicles on public and private property heads the Top Ten list of citizen complaints in the past nine months. Abandoned vehicles are eyesores in a neighborhood, dangerous attractions for children to play in, fire hazards, and health hazards because they often harbor rats and other rodents. Last year, this problem also ranked number one, and over the ten year period from July, 1991 through June, 2001, the complaint category of abandoned vehicles ranked number three, following "Alley/Street Lighting" and "Dangerous Buildings." Thus, this complaint area has been a big problem for Detroit residents for years and years, and does not yet appear to be under effective control, despite various spring clean-up campaigns, and reorganization projects.

Previously, the Detroit Police Department enforced the City ordinances against inoperable or abandoned vehicles on city streets, and the Buildings & Safety Engineering Department (B&SE) was responsible for enforcing ordinances against abandoned and inoperable vehicles on private property. (B&SE would tag the vehicles on private property, and the Police Department would tow them; police officers tag inoperable vehicles on the streets, and arrange with private towing companies to have them towed.)

Within the last two years, that responsibility for writing violations on private property was transferred to the Police Department. **Unfortunately, a recent court case has had the effect of diminishing the enforcement powers of the Police Department when seeking to tow inoperable vehicles off private property. In the absence of a court order authorizing the Police Department to enter private property to tow an inoperable vehicle, the Police Department no longer tows such vehicles off private property; they only issue violation notices.** The only exceptions are when the property owner consents, or when an imminent and severe risk to public health and safety exists, as with a fire.

This recent legal restriction prevents the Police Department from timely addressing a problem that is clearly "number one" to Detroit citizens, by a wide margin. Abandoned vehicles complaints represent twenty percent of the Top Ten citizen complaints.

2. **Trees:** Dead/Dangerous: Trimming/Removal requested/Stump removal

Ranking as the number two complaint over the previous nine months, diseased and dying trees were number five for our ten year period list of complaints and number three in last year's Budget Analysis Report. Both City trees, the major focus of these complaints, and privately owned trees have been a problem for neighborhoods and residents.

Falling tree branches are destroying property, and seriously injuring passers-by, including children. In one tragic incident, which this Office reported last year, a City tree branch fell on a child and knocked her off her bike. Unfortunately, it was later reported to this Office that the child may have been permanently brain-damaged. These and other similar incidents, in addition to being devastating and preventable, expose the City to enormous liability. City trees need to be trimmed in order to prevent the hazard of low-hanging tree branches obscuring drivers' views; dead branches must be

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removed timely in order to prevent the sort of tragic accident described above; and prompt tree stump removal is also essential in order to prevent children and others from injuring themselves on the protruding stump.

Trees on City-owned lots are the responsibility of the Planning & Development Department; "City" trees on the berm area between the sidewalk and the street are the responsibility of the Forestry Division of the Recreation Department. Under the Mayor's proposed reorganization, some previous Forestry responsibilities will be transferred to the Department of Public Works, including maintenance of boulevards, greenways, and beltways.

3. **Alley/Street Lighting:** Inoperable/Repairs/Replacement requested

Once again, street lighting repair and replacement is high on the annual Top Ten list of citizen complaints. **Similarly, on the Top Fifteen list for our ten year period, street lighting is the number one complaint from July, 1991 through June, 2001.** Also, street lighting appeared as the number two complaint in last year's Budget Analysis Report.

Clearly, lack of adequate street lighting is an issue which desperately needs attention, has needed attention, and still needs attention. Street light outage renders neighborhoods more vulnerable to crime and vandalism, and causes citizens to feel more defenseless when they must walk unlit residential streets in order to get home, or leave home, after dark. It is reasonable to inquire how the current administration intends to address this recurring and dangerous problem.

4. **Debris/Garbage/Trash:** Illegally dumped/Requires removal

The complaint area of debris, trash and litter is another perennial problem in the City. **Ranking number five in last year's Report, and number eight in the ten-year overview, debris and litter from illegal dumping, or other sources, attract rodents, create a public health problem, and may contribute to the decline of neighborhoods. Debris begets debris; an illegal dumping site attracts more illegal dumping, and without intervention, the cycle continues. Early intervention and clean-up, coupled with prevention programs and aggressive enforcement efforts, are key measures in any program to address this problem.**

The Mayor's proposed budget allocates 16 people in the Environmental Enforcement Division of the Environmental Affairs Department, which has assumed this responsibility from the Department of Public Works. In addition, the Police Department has environmental code enforcement responsibility, although the exact number of employees allocated does not appear in the FY 2003-2004 budget. Further, Mayor Kilpatrick has announced he will be creating a new Department of Administrative Hearings "that will streamline code enforcement within the city ...". The Mayor notes he is thereby implementing a municipal civil infraction ordinance, which City Council has sought as far back as 1997.

The Office of the Ombudsman applauds the establishment of civil infraction fines in general, particularly since we have been recommending such a move for over ten years. **However, we question the propriety of this proposed Department being described as a revenue-generating department because such an arrangement brings into question the objectivity of the decisions that will be made once the Department of Administrative Hearings is operational.** The process of fining and collecting fees from Detroit residents, particularly when "collectible through garnishment and liens," as noted by the Mayor, should be systemically and organizationally separated from the

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administrative process of determining whether the civil infraction was properly issued. **The absence of such a separate configuration leads to the appearance of a conflict of interest, if those fines and fees generate the funds that maintain the department and the salaries of the persons that work there. This arrangement would tend to create suspicion in citizens' minds that the system is rigged against them.**

5. **Weeds:** Inspection/Enforcement/Vacant property: Cutting requested

Like its complaint cousin "Debris," tall grass and weeds remain a top-ranking problem for City government and its citizens. **Last year, the problem of weeds**

placed at number six in the Top Ten, and over the ten year period between July, 1991 to June, 2001, weeds appeared at number seven. Also like "Debris," untrimmed tall weeds and grass constitute a public health problem, attract rodents, and can obstruct a driver's view of the road.

Because of the ambitious nature of the City-wide weed-cutting program, this Office admits to some surprise that, despite its many problems, the City's efforts to hire private contractors to remove weeds on vacant lots appear not to have made much of a dent in the overall complaint levels. Under the weed-cutting program, the City has increased dramatically the funds allocated to vacant lot cutting, and the system developed is more systematic and more aggressive than previous attempts at solving this recurring problem.

However, not only does the weed-cutting program appear to be relatively ineffective in diminishing the number of weed complaints, the current process itself is laden with problems, including the appearance of conflict of interest concerns, unhappy lot owners who repeatedly get improperly dunned for work not done, and a convoluted and confusing process for complaint resolution.

The Office of the Ombudsman observes that weed violation enforcement efforts (ticketing property owners with tall grass or weeds in their back yards, for example) have been transferred from the Department of Public Works to the Environmental Affairs Department, but vacant lot cutting remains the responsibility of DPW. (For more detailed information on the weed-cutting program, see "Weeds, Liens, Special Assessments, and Misuse of Authority," page 8.)

6. **Street Maintenance:** Repair/Replacement: Requested/Untimely

Street repair and replacement complaints appear to be "moving up" on the Top Ten list of citizen complaints. Last year, this complaint area ranked number ten, and in our ten year list of citizen complaints from July, 1991 through June, 2001, street repair was similarly number ten. **Streets which are riddled with potholes are dangerous and damaging to drive, and serve as the target of numerous claims against the City.**

This past winter was not kind to streets, as the severe cold, followed by periods of thaw, caused even more street damage than usual. Much of the street repair and replacement budget comes from the State of Michigan, and the federal government; unfortunately, those sources of revenue have been diminishing over time, while the damage to the streets remains constant, or increases.

7. **Dangerous Buildings:** Open to trespass/Dilapidated/Code violations

A continuing problem in all of the City's neighborhoods, dangerous buildings constitute another serious repeat complaint issue. **Open and dilapidated buildings represent a grave challenge for any neighborhood. If vacant, they attract prostitutes and drug dealers, as well as squatters and other criminals. They are a hazardous magnet for children who love to play in them. And, they can be the first death-knell of an expiring neighborhood. One vacant building can lead to more and more on a block, until the entire block is wiped out.**

Appearing at the number four rank last year, and as high as number two over the ten year period from July, 1991 to June, 2001, this complaint area results from owners abandoning their properties, and a severe lack of adequate resources to address the continuing challenge of a disappearing populace.

8. **Water Systems:** Sod/Sidewalk/Driveway/Curb: Repair/Replacement untimely

Unfortunately, Water Systems complaints have risen in the ranks recently; they placed at number nine in last year's Report, and were "only" number twelve over the ten year period from July, 1991 through June, 2001. The increase in rank indicates that citizens are frustrated by the long waits for repairs to sidewalks, curbs, driveways, and lawns after broken water mains have been repaired.

These types of repairs may take years to complete. In the meantime, private property becomes unsightly and may even become hazardous, with broken sidewalks, open holes, and piles of sod and dirt to obstruct the unfortunate pedestrians and property owners. As we note elsewhere in this Report, the aggravating and hazardous delays to effect water systems repairs reflect the size of Detroit's system of water pipes (3,400 miles of sewer pipe and 3,400 miles of water mains), the system's aging infrastructure (some downtown pipes were installed in the 1830's), and the continuing costs of our severe winter weather. (For additional information, see "Detroit Water & Sewerage Department: Continuing Problems with Customer Service in Detroit," page 32.)

9. **Catch Basins/Sewers:** Blocked/Flooding/Sinking

Another "favorite" complaint, this Detroit Water & Sewerage Department (DWSD) responsibility was number nine in last year's Report, and number six for our ten-year period. Blocked and flooding sewers and catch basins remain a serious and hazardous problem for Detroit citizens. Drivers and pedestrians may

slip, slide, and be injured on icy flooding streets; flooding basements damage private property and can result in increased liability for the City; and streets flooded with rain water are messy and hazardous to navigate.

In the essay on DWSD's customer services, page 36, we are critical of the decision to cease most overtime repair work in the Water & Sewerage Department, despite the fact that it may have saved the Department significant direct costs. **These Top Ten rankings indicate that DWSD cannot afford to short-stint the citizens, business people, and drivers in the City of Detroit, merely to cut immediate costs, because lack of timely repair work creates additional indirect costs to the Department and the City, as well as its citizens and drivers.**

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Sidewalks: Repair/Replacement requested

Making its unfortunate debut appearance on the Top Ten list of citizen complaints, sidewalks needing repair or replacement are a classic target for claims and lawsuits filed by persons claiming to be injured while tripping on one.

In 1997, the new Detroit City Charter formally established that private property owners are responsible for most sidewalk repairs; the property owner may elect for the City to do the work, but the property owner will be billed for the work done, and if not paid, the cost of sidewalk repair becomes a lien against that property. However, the City, in addition to the property owner, is responsible for determining when the sidewalk flags become hazardous, and for effecting the repairs if the property owner chooses not to do so.

Sidewalk repairs may involve the Department of Public Works' City Engineering Division, who inspect the sidewalks and arrange to have the work done, and sometimes the Forestry Division of the Recreation Department. Forestry may become involved when the damage to the sidewalk is caused by a City tree's roots lifting or displacing one or more sidewalk flags. In that event, the Forestry Division must first arrange to cut the roots affected, and the sidewalk repairs can then be effectively accomplished. Often, the need to wait for Forestry's work may delay sidewalk repairs for lengthy periods, thus exposing the City to increased liability, and the pedestrian to the increased likelihood of injury.

"Gone, but Not Forgotten:"

Some Complaint Areas Retire from the Top Ten List

In an effort to be congratulatory, and also to emphasize that long-standing complaint problems can be addressed, even in times of fiscal distress, if creative new strategies are attempted, we hereby list some of those former complaint categories which have diminished to the point of falling off our Top Ten complaint list. These problems may still recur on occasion, but not in the numbers or to the serious extent, that they once did. Our list of "retirees" is as follows:

- Bulk Pick-Ups: Once a huge problem in the City of Detroit, bulk pick-ups are now done on a monthly basis, and usually done well. The majority of the bulk pick-up complaints we now tend to receive have to do with complaints against property owners who do not put out their bulk waste timely; the unsightly items stay there for an unacceptable length of time, sometimes as much as another month. Such property owners usually get a violation notice, and the problem ceases, or eases.
- Rodent Control: Rats and mice are a significant health hazard, and it is to the City's credit that these rodent populations are dwindling to the point that these complaints have rarely reached the Top Ten list in recent years. We believe that this reduction in complaints reflects a real reduction in the rodent population in Detroit, and that such a substantial reduction is likely due to the establishment of the Courville system under the Coleman A. Young administration.
- Demolitions: Still a problem, but less reported to this Office, demolitions have departed the Top Ten list, but still occupy the number eleven spot this year. Nevertheless, we do perceive a slight decrease in complaints on this difficult and challenging problem. We fear some of the drop-off in complaints reflect citizen apathy and a sense of helplessness in dealing with

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these dangerous structures, but we hope that the reduction reflects some real City progress in handling these hazardous problems more expeditiously.

- Narcotics: Narcotics complaints dropped precipitously over the past two years, from number seven on last year's Top Ten list, to number twelve this year. Along with most Detroiters, it is our fervent hope that this drop indicates a real improvement in both enforcement efforts and in prevention efforts. Narcotics usage has been the scourge of urban areas and rural areas alike, and any indication of progress in this area is a welcome development.

